

AMENDED IN ASSEMBLY MAY 3, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 171**

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### **Introduced by Assembly Member Beall**

**(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Carter, Chesbro, Eng, Huffman, Mitchell, Swanson, Wieckowski, Williams, and Yamada)**

January 20, 2011

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An act to add Section 1374.73 to the Health and Safety Code, and to add Section 10144.51 to the Insurance Code, relating to health care coverage.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 171, as amended, Beall. Autism spectrum disorder.

(1) Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for licensing and regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions.

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of autism spectrum disorders. The bill would, however, provide that no benefits are required to be provided by a health benefit plan offered through the California Health Benefit Exchange that exceed the essential health benefits required under federal law. The bill would

prohibit coverage from being denied for specified reasons. Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1374.73 is added to the Health and Safety
- 2 Code, to read:
- 3 1374.73. (a) Every health care service plan contract issued,
- 4 amended, or renewed on or after January 1, 2012, that provides
- 5 hospital, medical, or surgical coverage shall provide coverage for
- 6 the screening, diagnosis, and treatment of autism spectrum
- 7 disorders.
- 8 (b) A health care service plan shall not terminate coverage, or
- 9 refuse to deliver, execute, issue, amend, adjust, or renew coverage,
- 10 to an enrollee solely because the individual is diagnosed with, or
- 11 has received treatment for, an autism spectrum disorder.
- 12 (c) Coverage required to be provided under this section shall
- 13 extend to all medically necessary services and shall not be subject
- 14 to any limits regarding age, number of visits, or dollar amounts.
- 15 Coverage required to be provided under this section shall not be
- 16 subject to provisions relating to lifetime maximums, deductibles,
- 17 copayments, or coinsurance or other terms and conditions that are
- 18 less favorable to an enrollee than lifetime maximums, deductibles,
- 19 copayments, or coinsurance or other terms and conditions that
- 20 apply to physical illness generally under the plan contract.
- 21 (d) Coverage required to be provided under this section is a
- 22 health care service and a covered health care benefit for purposes
- 23 of this chapter. Coverage shall not be denied on the basis that the
- 24 treatment is habilitative, nonrestorative, educational, academic, or
- 25 custodial in nature.
- 26 (e) A health care service plan may request, no more than once
- 27 annually, a review of treatment provided to an enrollee for autism

1 spectrum disorders. The cost of obtaining the review shall be borne  
2 by the plan. This subdivision does not apply to inpatient services.

3 (f) A health care service plan shall establish and maintain an  
4 adequate network of qualified autism service providers with  
5 appropriate training and experience in autism spectrum disorders  
6 to ensure that enrollees have a choice of providers, and have timely  
7 access, continuity of care, and ready referral to all services required  
8 to be provided by this section consistent with Sections 1367 and  
9 1367.03 and the regulations adopted pursuant thereto.

10 (g) (1) This section shall not be construed as reducing any  
11 obligation to provide services to an enrollee under an individualized  
12 family service plan, an individualized program plan, a prevention  
13 program plan, an individualized education program, or an  
14 individualized service plan.

15 (2) This section shall not be construed as limiting benefits that  
16 are otherwise available to an enrollee under a health care service  
17 plan.

18 (3) This section shall not be construed as affecting litigation  
19 that is pending on January 1, 2012.

20 (h) On and after January 1, 2014, to the extent that this section  
21 requires health benefits to be provided that exceed the essential  
22 health benefits required to be provided under Section 1302(b) of  
23 the federal Patient Protection and Affordable Care Act (Public  
24 Law 111-148), as amended by the federal Health Care and  
25 Education Reconciliation Act of 2010 (Public Law 111-152) by  
26 qualified health plans offering those benefits in the California  
27 Health Benefit Exchange pursuant to Title 22 (commencing with  
28 Section 100500) of the Government Code, the specific benefits  
29 that exceed the federally required essential health benefits are not  
30 required to be provided when offered by a health care service plan  
31 contract through the Exchange. However, those specific benefits  
32 are required to be provided if offered by a health care service plan  
33 contract outside of the Exchange.

34 (i) As used in this section, the following terms shall have the  
35 following meanings:

36 (1) "Autism spectrum disorder" means a neurobiological  
37 condition that includes autistic disorder, Asperger's disorder, Rett's  
38 disorder, childhood disintegrative disorder, and pervasive  
39 developmental disorder not otherwise specified.

(2) “Behavioral health treatment” means professional services and treatment programs, including behavioral intervention therapy, applied behavioral analysis, and other intensive behavioral programs, that have demonstrated efficacy to develop, maintain, or restore, to the maximum extent practicable, the functioning or quality of life of an individual and that have been demonstrated to treat the core symptoms associated with autism spectrum disorder.

(3) “Behavioral intervention therapy” means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in behaviors, including the use of direct observation, measurement, and functional analyses of the relationship between environment and behavior.

(4) “Diagnosis of autism spectrum disorders” means medically necessary assessment, evaluations, or tests to diagnose whether an individual has one of the autism spectrum disorders.

(5) “Evidence-based research” means research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(6) “Pharmacy care” means medications prescribed by a licensed physician and surgeon or other appropriately licensed or certified provider and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(7) “Psychiatric care” means direct or consultative psychiatric services provided by a psychiatrist or any other appropriately licensed or certified provider.

(8) “Psychological care” means direct or consultative psychological services provided by a psychologist or any other appropriately licensed or certified provider.

(9) “*Qualified autism service provider*” shall include any nationally or state licensed or certified person, entity, or group that designs, supervises, or provides treatment of autism spectrum disorders and the unlicensed personnel supervised by the licensed or certified person, entity, or group, provided the services are within the experience and scope of practice of the licensed or certified person, entity, or group. “*Qualified autism service provider*” shall also include any service provider that is vendorized by a regional center to provide those same services for autism spectrum disorders under Division 4.5 (commencing with Section

4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code and the unlicensed personnel supervised by that provider, or a State Department of Education nonpublic, nonsectarian agency as defined in Section 56035 of the Education Code approved to provide those same services for autism spectrum disorders and the unlicensed personnel supervised by that agency. A qualified autism service provider shall ensure criminal background screening and fingerprinting, and adequate training and supervision of all personnel utilized to implement services. Any national license or certification recognized by this section shall be accredited by the National Commission for Certifying Agencies (NCCA).

(9)

(10) "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists or any other appropriately licensed or certified provider.

(10)

(11) "Treatment for autism spectrum disorders" means all of the following care, including necessary equipment, prescribed or ordered for an individual diagnosed with one of the autism spectrum disorders by a licensed physician and surgeon or a licensed psychologist or any other appropriately licensed or certified provider who determines the care to be medically necessary:

(A) Behavioral health treatment.

(B) Pharmacy care.

(C) Psychiatric care.

(D) Psychological care.

(E) Therapeutic care.

(F) Any care for individuals with autism spectrum disorders that is demonstrated, based upon best practices or evidence-based research, to be medically necessary.

(j) This section, with the exception of subdivision (b), shall not apply to dental-only or vision-only health care service plan contracts.

SEC. 2. Section 10144.51 is added to the Insurance Code, to read:

10144.51. (a) Every health insurance policy issued, amended, or renewed on or after January 1, 2012, that provides hospital,

1 medical, or surgical coverage shall provide coverage for the  
2 screening, diagnosis, and treatment of autism spectrum disorders.

3 (b) A health insurer shall not terminate coverage, or refuse to  
4 deliver, execute, issue, amend, adjust, or renew coverage, to an  
5 insured solely because the individual is diagnosed with, or has  
6 received treatment for, an autism spectrum disorder.

7 (c) Coverage required to be provided under this section shall  
8 extend to all medically necessary services and shall not be subject  
9 to any limits regarding age, number of visits, or dollar amounts.  
10 Coverage required to be provided under this section shall not be  
11 subject to provisions relating to lifetime maximums, deductibles,  
12 copayments, or coinsurance or other terms and conditions that are  
13 less favorable to an insured than lifetime maximums, deductibles,  
14 copayments, or coinsurance or other terms and conditions that  
15 apply to physical illness generally under the policy.

16 (d) Coverage required to be provided under this section is a  
17 health care service and a covered health care benefit for purposes  
18 of this part. Coverage shall not be denied on the basis that the  
19 treatment is habilitative, nonrestorative, educational, academic, or  
20 custodial in nature.

21 (e) A health insurer may request, no more than once annually,  
22 a review of treatment provided to an insured for autism spectrum  
23 disorders. The cost of obtaining the review shall be borne by the  
24 insurer. This subdivision does not apply to inpatient services.

25 (f) A health insurer shall establish and maintain an adequate  
26 network of qualified autism service providers with appropriate  
27 training and experience in autism spectrum disorders to ensure  
28 that insureds have a choice of providers, and have timely access,  
29 continuity of care, and ready referral to all services required to be  
30 provided by this section consistent with Sections 10133.5 and  
31 10133.55 and the regulations adopted pursuant thereto.

32 (g) (1) This section shall not be construed as reducing any  
33 obligation to provide services to an insured under an individualized  
34 family service plan, an individualized program plan, a prevention  
35 program plan, an individualized education program, or an  
36 individualized service plan.

37 (2) This section shall not be construed as limiting benefits that  
38 are otherwise available to an enrollee under a health insurance  
39 policy.

1 (3) This section shall not be construed as affecting litigation  
2 that is pending on January 1, 2012.

3 (h) On and after January 1, 2014, to the extent that this section  
4 requires health benefits to be provided that exceed the essential  
5 health benefits required to be provided under Section 1302(b) of  
6 the federal Patient Protection and Affordable Care Act (Public  
7 Law 111-148), as amended by the federal Health Care and  
8 Education Reconciliation Act of 2010 (Public Law 111-152) by  
9 qualified health plans offering those benefits in the California  
10 Health Benefit Exchange pursuant to Title 22 (commencing with  
11 Section 100500) of the Government Code, the specific benefits  
12 that exceed the federally required essential health benefits are not  
13 required to be provided when offered by a health insurance policy  
14 through the Exchange. However, those specific benefits are  
15 required to be provided if offered by a health insurance policy  
16 outside of the Exchange.

17 (i) As used in this section, the following terms shall have the  
18 following meanings:

19 (1) "Autism spectrum disorder" means a neurobiological  
20 condition that includes autistic disorder, Asperger's disorder, Rett's  
21 disorder, childhood disintegrative disorder, and pervasive  
22 developmental disorder not otherwise specified.

23 (2) "Behavioral health treatment" means professional services  
24 and treatment programs, including behavioral intervention therapy,  
25 applied behavioral analysis, and other intensive behavioral  
26 programs, that have demonstrated efficacy to develop, maintain,  
27 or restore, to the maximum extent practicable, the functioning or  
28 quality of life of an individual and that have been demonstrated  
29 to treat the core symptoms associated with autism spectrum  
30 disorder.

31 (3) "Behavioral intervention therapy" means the design,  
32 implementation, and evaluation of environmental modifications,  
33 using behavioral stimuli and consequences, to produce socially  
34 significant improvement in behaviors, including the use of direct  
35 observation, measurement, and functional analyses of the  
36 relationship between environment and behavior.

37 (4) "Diagnosis of autism spectrum disorders" means medically  
38 necessary assessment, evaluations, or tests to diagnose whether  
39 an individual has one of the autism spectrum disorders.

1 (5) “Evidence-based research” means research that applies  
2 rigorous, systematic, and objective procedures to obtain valid  
3 knowledge relevant to autism spectrum disorders.

4 (6) “Pharmacy care” means medications prescribed by a licensed  
5 physician and surgeon or other appropriately licensed or certified  
6 provider and any health-related services deemed medically  
7 necessary to determine the need or effectiveness of the medications.

8 (7) “Psychiatric care” means direct or consultative psychiatric  
9 services provided by a psychiatrist or any other appropriately  
10 licensed or certified provider.

11 (8) “Psychological care” means direct or consultative  
12 psychological services provided by a psychologist or any other  
13 appropriately licensed or certified provider.

14 (9) “*Qualified autism service provider*” shall include any  
15 nationally or state licensed or certified person, entity, or group  
16 that designs, supervises, or provides treatment of autism spectrum  
17 disorders and the unlicensed personnel supervised by the licensed  
18 or certified person, entity, or group, provided the services are  
19 within the experience and scope of practice of the licensed or  
20 certified person, entity, or group. “*Qualified autism service*  
21 *provider*” shall also include any service provider that is vendorized  
22 by a regional center to provide those same services for autism  
23 spectrum disorders under Division 4.5 (commencing with Section  
24 4500) of the Welfare and Institutions Code or Title 14 (commencing  
25 with Section 95000) of the Government Code and the unlicensed  
26 personnel supervised by that provider, or a State Department of  
27 Education nonpublic, nonsectarian agency as defined in Section  
28 56035 of the Education Code approved to provide those same  
29 services for autism spectrum disorders and the unlicensed  
30 personnel supervised by that agency. A qualified autism service  
31 provider shall ensure criminal background screening and  
32 fingerprinting, and adequate training and supervision of all  
33 personnel utilized to implement services. Any national license or  
34 certification recognized by this section shall be accredited by the  
35 National Commission for Certifying Agencies (NCCA).

36 ~~(9)~~

37 (10) “Therapeutic care” means services provided by licensed  
38 or certified speech therapists, occupational therapists, or physical  
39 therapists or any other appropriately licensed or certified provider.

40 ~~(10)~~

1 (11) "Treatment for autism spectrum disorders" means all of  
2 the following care, including necessary equipment, prescribed or  
3 ordered for an individual diagnosed with one of the autism  
4 spectrum disorders by a licensed physician and surgeon or a  
5 licensed psychologist or any other appropriately licensed or  
6 certified provider who determines the care to be medically  
7 necessary:

8 (A) Behavioral health treatment.

9 (B) Pharmacy care.

10 (C) Psychiatric care.

11 (D) Psychological care.

12 (E) Therapeutic care.

13 (F) Any care for individuals with autism spectrum disorders  
14 that is demonstrated, based upon best practices or evidence-based  
15 research, to be medically necessary.

16 (j) This section, with the exception of subdivision (b), shall not  
17 apply to dental-only or vision-only health insurance policies.

18 SEC. 3. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.