

Chapter 294

(House Bill 1055)

AN ACT concerning

Health Insurance – Habilitative Services – Required Coverage ~~and~~, Workgroup, and Technical Advisory Group

FOR the purpose of ~~altering the age under which certain insurers, nonprofit health service plans, and health maintenance organizations must provide coverage of habilitative services;~~ specifying the format in which certain insurers, nonprofit health service plans, and health maintenance organizations must provide a certain notice about the coverage ~~must be provided~~ of habilitative services; requiring that certain determinations made by certain insurers, nonprofit health service plans, and health maintenance organizations be made in accordance with certain regulations beginning on a certain date; requiring the Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Commissioner, to establish a technical advisory group on the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders; establishing the composition of the technical advisory group; requiring the technical advisory group to develop certain recommendations and obtain certain input; requiring the Commissioner, on or before a certain date, to adopt certain regulations based on the recommendations of the technical advisory group; requiring the ~~Maryland Insurance~~ Commissioner to establish a workgroup on access to habilitative services benefits; specifying the composition of the workgroup; requiring the workgroup to make certain determinations; requiring the Commissioner to ~~report~~ submit certain reports on the findings and recommendations of the workgroup, on or before a ~~certain date~~ certain dates, to certain legislative committees; altering a certain definition; providing for the construction of this Act; and generally relating to health insurance coverage of habilitative services.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–835

Annotated Code of Maryland

(2011 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

15–835.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Congenital or genetic birth defect” means a defect existing at or from birth, including a hereditary defect.

(ii) “Congenital or genetic birth defect” includes, but is not limited to:

1. autism or an autism spectrum disorder; [and]
2. cerebral palsy;
3. **INTELLECTUAL DISABILITY;**
4. **DOWN SYNDROME;**
5. **SPINA BIFIDA;**
6. **HYDROENCEPHALOCELE; AND**
7. ~~DEVELOPMENTAL DISORDERS (LEARNING, READING, MATHEMATICS, SPEECH, AND SPELLING)~~ **CONGENITAL OR GENETIC DEVELOPMENTAL DISABILITIES.**

(3) “Habilitative services” means services, including occupational therapy, physical therapy, and speech therapy, for the treatment of a child with a congenital or genetic birth defect to enhance the child’s ability to function.

(4) “Managed care system” means a method that an insurer, a nonprofit health service plan, or a health maintenance organization uses to review and preauthorize a treatment plan that a health care practitioner develops for a covered person using a variety of cost containment methods to control utilization, quality, and claims.

(b) This section applies to:

(1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and

(2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) (1) An entity subject to this section shall provide coverage of habilitative services for children under the age of ~~19~~ ~~21~~ years and may do so through a managed care system.

(2) An entity subject to this section is not required to provide reimbursement for habilitative services delivered through early intervention or school services.

(d) An entity subject to this section shall provide notice annually to its insureds and enrollees about the coverage required under this section:

(1) IN PRINT; AND

(2) ON ITS WEB SITE.

(e) A determination by an entity subject to this section denying a request for habilitative services or denying payment for habilitative services on the grounds that a condition or disease is not a congenital or genetic birth defect is considered an “adverse decision” under § 15–10A–01 of this title.

(F) BEGINNING NOVEMBER 1, 2013, A DETERMINATION BY AN ENTITY SUBJECT TO THIS SECTION OF WHETHER HABILITATIVE SERVICES COVERED UNDER THIS SECTION ARE MEDICALLY NECESSARY AND APPROPRIATE TO TREAT AUTISM AND AUTISM SPECTRUM DISORDERS SHALL BE MADE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Commissioner, shall establish a technical advisory group on the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders.

(b) The technical advisory group shall be composed of individuals with expertise in the treatment of children with autism and autism spectrum disorders.

(c) The technical advisory group shall develop recommendations for the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders.

(d) When making a recommendation, the technical advisory group shall consider whether the recommendation is:

(1) objective;

- (2) clinically valid;
- (3) compatible with established principles of health care; and
- (4) flexible enough to allow deviations from norms when justified on a case by case basis.

(e) In its work, the technical advisory group shall obtain input from the public, including input from:

- (1) parents of children with autism and autism spectrum disorders;
and
- (2) the insurers, nonprofit health service plans, and health maintenance organizations that are subject to § 15–835 of the Insurance Article, as enacted by Section 1 of this Act.

(f) Based on the recommendations of the technical advisory group, the Commissioner, on or before November 1, 2013, shall adopt regulations that relate to the medically necessary and appropriate use of habilitative services to treat autism and autism spectrum disorders for purposes of § 15–835 of the Insurance Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Commissioner shall establish a workgroup on access to habilitative services benefits.

(b) The workgroup shall consist of:

- (1) one member of the Senate of Maryland, appointed by the President of the Senate;
- (2) one member of the House of Delegates, appointed by the Speaker of the House; and
- (3) physical therapists, occupational therapists, speech pathologists, ~~pediatricians~~, K–12 and early intervention educators, a parent of a ~~special-needs~~ child with special needs, and representatives of insurers, the Maryland Insurance Administration, the Maryland Health Care Commission, the Maryland State Department of Education, the Maryland Developmental Disabilities Council, the Maryland Department of Disabilities, and the Department of Health and Mental Hygiene.

(c) The workgroup shall determine:

(1) whether children who are entitled to and would benefit from habilitative services under health insurance policies or contracts or health maintenance organization contracts are actually receiving them;

(2) if the children are not receiving the habilitative services, the reasons why; ~~and~~

(3) any actions needed to promote optimum use of the habilitative services to:

(i) maximize outcomes for children; and

(ii) reduce long-term costs to the education and health care systems; and

(4) the costs and benefits associated with expanding habilitative services coverage to individuals under the age of 26 years.

(d) (1) On or before November 1, 2012, the Commissioner shall submit an interim report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the workgroup.

(2) On or before November 1, 2013, the Commissioner shall submit a final report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the workgroup.

SECTION 4. AND BE IT FURTHER ENACTED, That the changes made under Section 1 of this Act to the definition of “congenital or genetic birth defect” in § 15-835(a)(2) of the Insurance Article are intended to clarify the scope of coverage of services required under § 15-835 as it existed before the effective date of this Act, and are not intended, and may not be interpreted or construed, to expand the coverage of services required under § 15-835 as it existed before the effective date of this Act.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.