AN ACT concerning insurance; providing coverage for autism spectrum disorder; amending K.S.A. 2011 Supp. 40-2,103 and 40-19c09 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The secretary of the department of social and rehabilitation services, or any successor agency, is hereby authorized and directed to study and identify the number of individuals in Kansas who need this coverage and the cost of providing treatment for autism to people in the state of Kansas. Such study shall include a determination of the actual cost of providing coverage for the treatment and diagnosis of autism spectrum disorders in any individual in the state of Kansas whose age is less than 19 years. The coverage and level of service for the treatment and diagnosis of autism spectrum disorders required by this subsection shall be the same as the coverage and level of service required by section 2, and amendments thereto.

(b) The secretary of the department of social and rehabilitation services, or any successor agency, shall prepare and submit a report containing the secretary’s findings and recommendations. This report shall be submitted to the president of the senate, the speaker of the house of representatives, the senate committee on ways and means and the house of representatives committee on appropriations on or before January 20, 2013.

New Section 1. New Sec. 2. (a) (1) {Except as provided in subsection (h),} any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed on or after July 1, 2012, shall provide coverage for the treatment and diagnosis of autism spectrum disorders in any covered individual whose age is less than 19 years.

(2) Such coverage shall be provided in a manner determined in
consultation with the autism services provider and the patient. Services
provided by an autism services provider under this section shall include
applied behavior analysis when required by a licensed physician, licensed
psychologist or licensed specialist clinical social worker but otherwise
shall be limited to those services prescribed or ordered by a licensed
physician, licensed psychologist or licensed specialist clinical social
worker. Services provided pursuant to this paragraph shall be those
services which are or have been recognized by peer reviewed literature as
providing medical benefit to the patient based upon the patient’s particular
autism spectrum disorder.

(3) Coverage for benefits for any covered person diagnosed with one
or more autism spectrum disorders and whose age is between birth and
less than seven years shall not exceed $36,000 per year.

(4) Coverage for benefits for any covered person diagnosed with one
or more autism spectrum disorders and whose age is at least seven years
and less than 19 years shall not exceed $27,000 per year.

(5) Reimbursement shall be allowed only for services provided by a
provider licensed, trained and qualified to provide such services or by an
autism specialist or an intensive individual service provider as such terms
are defined by the department of social and rehabilitation services Kansas
autism waiver.

(6) Any insurer or other entity which administers claims for services
provided for the treatment of autism spectrum disorder under this section,
and amendments thereto, shall have the right and obligation to deny any
claim for services based upon medical necessity or a determination that the
covered individual has reached the maximum medical improvement for the
covered individual’s autism spectrum disorder.

(7) Except for inpatient services, if an insured is receiving treatment
for an autism spectrum disorder, such insurer shall have the right to review
the treatment plan annually, unless the insurer and the insured’s treating
physician or psychologist agree that a more frequent review is necessary.
Any such agreement regarding the right to review a treatment plan more
frequently shall apply only to a particular insured being treated for an
autism spectrum disorder and shall not apply to all individuals being
treated for autism spectrum disorder by a physician or psychologist. The
cost of obtaining any review or treatment plan shall be borne by the
insurer.

(8) No insurer can terminate coverage, or refuse to deliver, execute,
issue, amend, adjust, or renew coverage to an individual solely because the
individual is diagnosed with or has received treatment for an autism
spectrum disorder.

(b) For the purposes of this section:

(1) "Applied behavior analysis" means the design, implementation
and evaluation of environmental modifications, using behavioral stimuli
and consequences, to produce socially significant improvement in human
behavior, including the use of direct observation, measurement and
functional analysis of the relationship between environment and behavior.

(2) "Autism spectrum disorder" means the following disorders within
the autism spectrum: Autistic disorder, Asperger’s syndrome and pervasive
developmental disorder not otherwise specified, as such terms are
specified in the diagnostic and statistical manual of mental disorders,
fourth edition, text revision (DSM-IV-TR), of the American psychiatric
association, as published in May, 2000, or later versions as established in
rules and regulations adopted by the behavioral sciences regulatory board
pursuant to K.S.A. 74-7507, and amendments thereto.

(3) "Diagnosis of autism spectrum disorder" means any medically
necessary assessment, evaluation or test to determine whether an
individual has an autism spectrum disorder.

(c) Except as otherwise provided in subsection (a), no individual or
group health insurance policy, medical service plan, contract, hospital
service corporation contract, hospital and medical service corporation
contract, fraternal benefit society or health maintenance organization
which provides coverage for accident and health services and which
provides coverage with respect to an autism spectrum disorder shall:

(1) Impose on the coverage required by this section any dollar limits,
deductibles or coinsurance provisions that are less favorable to an insured
than the dollar limits, deductibles or coinsurance provisions that apply to
physical illness generally under the accident and sickness insurance policy;
or

(2) impose on the coverage required by this section any limit upon the
number of visits that a covered individual may make for treatment of
autism spectrum disorder.

(d) The provisions of this section shall not apply to any policy or
certificate which provides coverage for any specified disease, specified
accident or accident only coverage, credit, dental, disability income,
hospital indemnity, long-term care insurance as defined by K.S.A. 40-
2227, and amendments thereto, vision care or any other limited
supplemental benefit nor to any medicare supplement policy of insurance
as defined by the commissioner of insurance by rules and regulations, any
coverage issued as a supplement to liability insurance, workers’
compensation or similar insurance, automobile medical-payment insurance
or any insurance under which benefits are payable with or without regard
to fault, whether written on a group, blanket or individual basis.

(e) This section shall not be construed as limiting benefits that are
otherwise available to an individual under any individual or group health
insurance policy, medical service plan, contract, hospital service
corporation contract, hospital and medical service corporation contract, 
fraternal benefit society or health maintenance organization which 
provides coverage for accident and health services.

(f) The provisions of this section shall be applicable to the Kansas 
state employees health care benefits program and municipal funded pools.

(g) The provisions of K.S.A. 40-2249a, and amendments thereto, 
shall not apply to the provisions of this section.

(h) The commissioner of insurance shall grant a small employer 
with a health benefit plan, as such term is defined in K.S.A. 40-2209d, 
and amendments thereto, a waiver from the provisions of this section, 
if the small employer demonstrates to the commissioner of insurance 
by actual claims experience over any consecutive twelve-month period 
that compliance with this section has increased the cost of the health 
insurance policy by an amount of two and a half percent or greater 
over the period of a calendar year in premium costs to such small 
employer.

(i) To the extent that the provisions of this section require 
benefits that exceed the essential health benefits specified under 
section 1302(b) of the patient protection and affordable care act, Pub. 
L. No. 111-148, as amended, no health benefit plan offered by a health 
insurer in this state shall be required to offer any specific benefits 
required by this section that exceed the essential benefits specified 
under section 1302(b) of the patient protection and affordable care 

(j) Coverage required under this section shall not be denied to 
any covered individual on the basis that such individual was diagnosed 
with an autism spectrum disorder prior to the effective date of the 
policy.

New Sec. 3. (a) (1) On January 1, 2013, and on January 1 of the 
year following the year in which the rule and regulation required 
pursuant to subsection (b) becomes effective, the commissioner of 
insurance shall obtain from each health insurer who provided autism 
coverage in this state pursuant to this act the total cost of that portion 
of all premiums paid in all insurance policies or similar documents as 
specified in section 2(a), and amendments thereto, which is 
attributable to coverage for autism spectrum disorder as required by 
section 2, and amendments thereto, for the preceding calendar year.

(2) From the data accumulated by the commissioner of insurance 
shall be calculated an autism spectrum disorder premium rate which 
shall be equal to the average cost per person per month of the total 
premium collected which is attributable to coverage for autism 
spectrum disorder as required by section 2, and amendments thereto.

(3) If the autism spectrum disorder rate calculated pursuant to
paragraph (2) exceeds $.31 per person per month, then the amount of benefits specified in paragraphs (3) and (4) of section 2(a), and amendments thereto, shall be reduced by the percentage which is equal to the ratio which is determined by dividing the difference between the autism spectrum disorder rate by $.31, except that the amount of benefits specified in paragraphs (3) and (4) of section 2(a), and amendments thereto, shall not be reduced below zero.

(b) As soon as a new level of benefits has been calculated pursuant to subsection (a), the commissioner of insurance shall adopt a rule and regulation establishing the new benefit levels for paragraphs (3) and (4) of section 2(a), and amendments thereto, for the next policy year commencing after the rule and regulation required by this subsection becomes effective. The benefit levels established by such rule and regulation shall remain in effect until changed by a subsequent rule and regulation or by legislation.

(c) The commissioner is hereby authorized and directed to adopt rules and regulations necessary to implement this section.

{New Sec. 4. (a) (1) The department of health and environment, or any successor agency, shall provide services for the diagnosis and treatment of autism spectrum disorders for any individual in the state of Kansas whose age is less than 19 years and who is described in paragraph (2). Such services for the diagnosis and treatment of autism spectrum disorders shall be at least equal to the services for the treatment and diagnosis of autism spectrum disorders required pursuant to section 2, and amendments thereto.

(2) The services for the diagnosis and treatment of autism spectrum disorders specified in paragraph (1) shall be provided to:

(A) Any individual who qualifies for or is provided services pursuant to the provisions of K.S.A. 38-2001, and amendments thereto; or

(B) any individual who is not listed in subsection (a)(2)(A) and who qualifies for or is provided services under an autism waiver or other Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq.

(b) The department of health and environment, or any successor agency, is hereby directed to seek any necessary waivers from program requirements of the federal government as may be needed to carry out the provisions of this section and to maximize federal matching and other funds with respect to the provisions of this section.

If the department of health and environment, or any successor agency, determines that one or more waivers from program requirements of the federal government are needed to carry out the provisions of this section, the department of health and environment, or any successor
agency, shall implement the provisions of this section only if such waivers to federal program requirements have been obtained from the federal government.

(c) (1) Except as provided in paragraph (2), the review and update of the rules and regulations establishing eligibility requirements for the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., shall be completed and the revisions of such rules and regulations shall be adopted in accordance with the rules and regulations filing act no later than 12 calendar months following the date of receipt of the waivers required under subsection (b).

(2) If the department of health and environment, or any successor agency, determines that no waivers are required to implement the provisions of subsection (b), the review and update of the rules and regulations establishing eligibility requirements for the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., shall be completed and the revisions of such rules and regulations shall be adopted in accordance with the rules and regulations filing act no later than 12 calendar months following the effective date of this act.

(d) For the purposes of this section:

(1) "Autism spectrum disorder" means the following disorders within the autism spectrum: Autistic disorder, Asperger’s syndrome and pervasive developmental disorder not otherwise specified, as such terms are specified in the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR), of the American psychiatric association, as published in May, 2000, or later versions as established in rules and regulations adopted by the behavioral sciences regulatory board pursuant to K.S.A. 74-7507, and amendments thereto.

(2) "Diagnosis of autism spectrum disorder" means any medically necessary assessment, evaluation or test to determine whether an individual has an autism spectrum disorder.

Sec. 2. Sec. 3.6 K.S.A. 2011 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170, inclusive, 40-2250, K.S.A. 2011 Supp. 40-2,105a, 40-2,105b, 40-2,185 and 40-2,190 and section 42, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.
Sec. 3. K.S.A. 2011 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2011 Supp. 40-2,105a, 40-2,105b, 40-2,184 and 40-2,190 and section 42, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act. (b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness. (c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Sec. 4. K.S.A. 2011 Supp. 40-2,103 and 40-19c09 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.