

HOUSE BILL 1055

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CF SB 744

By: **Delegates A. Kelly, Alston, Arora, Barkley, Carr, Cullison, Frick, Glenn, Gutierrez, Hixson, Howard, Hubbard, Huckler, Ivey, Kaiser, Kipke, Lee, Luedtke, Mizeur, Pena-Melnyk, Reznik, S. Robinson, Tarrant, F. Turner, Valentino-Smith, Waldstreicher, Washington, Wilson, ~~and Zucker~~ Zucker, Hammen, Pendergrass, Bromwell, Costa, Donoghue, Elliott, Kach, McDonough, Morhaim, Murphy, Nathan-Pulliam, Oaks, and Ready**

Introduced and read first time: February 10, 2012

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of ~~altering the age under which certain insurers, nonprofit health~~
5 ~~service plans, and health maintenance organizations must provide coverage of~~
6 ~~habilitative services~~; specifying the format in which certain insurers, nonprofit
7 health service plans, and health maintenance organizations must provide a
8 certain notice about the coverage ~~must be provided~~ of habilitative services;
9 requiring that certain determinations made by certain insurers, nonprofit
10 health service plans, and health maintenance organizations be made in
11 accordance with certain regulations beginning on a certain date; requiring the
12 Department of Health and Mental Hygiene, in consultation with the Maryland
13 Insurance Commissioner, to establish a technical advisory group on the
14 medically necessary and appropriate use of habilitative services to treat autism
15 and autism spectrum disorders; establishing the composition of the technical
16 advisory group; requiring the technical advisory group to develop certain
17 recommendations and obtain certain input; requiring the Commissioner, on or
18 before a certain date, to adopt certain regulations based on the
19 recommendations of the technical advisory group; requiring the ~~Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~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.

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

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

9 (b) This section applies to:

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

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

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

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

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

25 (1) IN PRINT; AND

26 (2) ON ITS WEB SITE.

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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

13 (1) objective;

14 (2) clinically valid;

15 (3) compatible with established principles of health care; and

16 (4) flexible enough to allow deviations from norms when justified on a
17 case by case basis.

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

20 (1) parents of children with autism and autism spectrum disorders;
21 and

22 (2) the insurers, nonprofit health service plans, and health
23 maintenance organizations that are subject to § 15–835 of the Insurance Article, as
24 enacted by Section 1 of this Act.

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

30 SECTION 3. AND BE IT FURTHER ENACTED, That:

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

1 (b) The workgroup shall consist of:

2 (1) one member of the Senate of Maryland, appointed by the President
3 of the Senate;

4 (2) one member of the House of Delegates, appointed by the Speaker of
5 the House; and

6 (3) physical therapists, occupational therapists, speech pathologists,
7 pediatricians, K-12 and early intervention educators, a parent of a ~~special-needs~~ child
8 with special needs, and representatives of insurers, the Maryland Insurance
9 Administration, the Maryland Health Care Commission, the Maryland State
10 Department of Education, the Maryland Developmental Disabilities Council, the
11 Maryland Department of Disabilities, and the Department of Health and Mental
12 Hygiene.

13 (c) The workgroup shall determine:

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

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

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

21 (i) maximize outcomes for children; and

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

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

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

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

1 SECTION 4. AND BE IT FURTHER ENACTED, That the changes made under
2 Section 1 of this Act to the definition of “congenital or genetic birth defect” in §
3 15–835(a)(2) of the Insurance Article are intended to clarify the scope of coverage of
4 services required under § 15–835 as it existed before the effective date of this Act, and
5 are not intended, and may not be interpreted or construed, to expand the coverage of
6 services required under § 15–835 as it existed before the effective date of this Act.

7 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect July 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.