

SENATE BILL 744

C3

2lr2447
CF HB 1055

By: **Senators Madaleno, Colburn, Conway, Currie, Forehand, Glassman, Jones-Rodwell, King, Klausmeier, Manno, McFadden, Montgomery, Muse, Peters, Pugh, Ramirez, Raskin, Rosapepe, ~~and Stone~~ Stone, Astle, Kittleman, Kelley, and Middleton**

Introduced and read first time: February 3, 2012

Assigned to: Finance

Committee Report: Favorable with amendments

Senate 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~~
20 Insurance Commissioner to establish a workgroup on access to habilitative
21 services benefits; specifying the composition of the workgroup; requiring the
22 workgroup to make certain determinations; requiring the Commissioner to

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.



1 ~~report~~ submit certain reports on the findings and recommendations of the
 2 workgroup, on or before ~~a certain date~~ certain dates, to certain legislative
 3 committees; altering a certain definition; providing for the construction of this
 4 Act; and generally relating to health insurance coverage of habilitative services.

5 BY repealing and reenacting, with amendments,
 6 Article – Insurance
 7 Section 15–835
 8 Annotated Code of Maryland
 9 (2011 Replacement Volume)

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

12 **Article – Insurance**

13 15–835.

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

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

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

19 1. autism or an autism spectrum disorder; [and]

20 2. cerebral palsy;

21 3. **INTELLECTUAL DISABILITY;**

22 4. **DOWN SYNDROME;**

23 5. **SPINA BIFIDA; AND**

24 6. **HYDROENCEPHALOCELE; AND**

25 7. **CONGENITAL OR GENETIC DEVELOPMENTAL**
 26 **DISABILITIES.**

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

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

6 (b) This section applies to:

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

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

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

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

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

22 **(1) IN PRINT; AND**

23 **(2) ON ITS WEB SITE.**

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

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

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

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

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

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

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

12 (1) objective;

13 (2) clinically valid;

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

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

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

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

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

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

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

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

32 (b) The workgroup shall consist of :

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

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

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

12 (c) The workgroup shall determine:

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

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

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

20 (i) maximize outcomes for children; and

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

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

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

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

33 SECTION 4. AND BE IT FURTHER ENACTED, That the changes made under
34 Section 1 of this Act to the definition of “congenital or genetic birth defect” in §
35 15-835(a)(2) of the Insurance Article are intended to clarify the scope of coverage of

1 services required under § 15-835 as it existed before the effective date of this Act, and
2 are not intended, and may not be interpreted or construed, to expand the coverage of
3 services required under § 15-835 as it existed before the effective date of this Act.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.