

Amendment No. 853

Assembly Amendment to Senate Bill No. 96 Second Reprint	(BDR 38-89)
<b>Proposed by:</b> Assembly Committee on Ways and Means	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EGO



Date: 5/31/2021

S.B. No. 96—Makes various changes relating to services provided to persons with autism spectrum disorders. (BDR 38-89)





SENATE BILL NO. 96—SENATORS OHRENSCHALL, D. HARRIS; BROOKS, BUCK, CANNIZZARRO, DENIS, DONATE, DONDERO LOOP, GOICOECHEA, HAMMOND, HANSEN, LANGE, NEAL, RATTI, SCHEIBLE, SEEVERS GANSERT, SETTELMAYER AND SPEARMAN

FEBRUARY 3, 2021

JOINT SPONSORS: ASSEMBLYWOMEN CARLTON; AND BENITEZ-THOMPSON

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to services provided to persons with autism spectrum disorders. (BDR 38-89)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to disability services; requiring the Department of Health and Human Services to biennially establish reimbursement rates for the services of certain providers for persons with autism spectrum disorders that are comparable to reimbursement rates paid by Medicaid programs in other states; requiring the Department to establish certain limitations relating to the provision of such services to recipients of Medicaid; providing for the reporting to the Legislature or the Legislative Committee on Health Care of certain information concerning the provision of such services to recipients of Medicaid; requiring the Autism Treatment Assistance Program to publish certain information on the Internet website of the Program and take certain actions when there is a waiting list for services from the Program; requiring the Department to seek an increase in certain reimbursement rates for a registered behavior technician under the Medicaid program, the Autism Treatment Assistance Program and the Children's Health Insurance Program; making appropriations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Department of Health and Human Services to administer the Medicaid program and the Children's Health Insurance Program. (NRS 422.270) **Section 4.8** of this bill requires the Department to submit to the United States Secretary of Health and Human Services a request to amend the State Plan for Medicaid to increase the rate of reimbursement which is provided on a fee-for-service basis for services provided by a registered behavior technician to ~~at least \$62~~ **at least \$52** per hour, or as close to that amount as the

Secretary approves. If the request is approved, **section 4.8** requires the Autism Treatment Assistance Program, which is established within the Aging and Disability Services Division to serve as the primary autism program within the Department, and the Children's Health Insurance Program to pay a rate of reimbursement for such services that is equal to or greater than the rate of reimbursement provided under Medicaid. (See NRS 427A.875) **Sections 4.2** ~~and 4.5~~ **-4.7** of this bill make appropriations to pay costs associated with increasing the reimbursement rates for Medicaid, ~~and~~ the Children's Health Insurance Program, ~~and~~ **and the Autism Treatment Assistance Program**. **Section 2** of this bill requires the Department, beginning on July 1, 2023, to biennially establish reimbursement rates provided on a fee-for-service basis under Medicaid for behavior analysts, assistant behavior analysts and registered behavior technicians that are comparable to reimbursement rates paid by Medicaid programs in other states for such providers. Beginning on July 1, 2023, **section 2** also requires the Department to establish reasonable limits on the number of hours that such a provider is authorized to bill for services provided to a recipient of Medicaid in a 24-hour period. Additionally, beginning on July 1, 2023, **section 2** requires the Division of Health Care Financing and Policy to: (1) provide training to such providers concerning such limits; and (2) annually report to the Legislature, if the Legislature is in session, or the Legislative Committee on Health Care, if the Legislature is not in session, concerning the provision of services to recipients of Medicaid who have been diagnosed with an autism spectrum disorder. **Section 4** of this bill makes a conforming change to provide that the provisions of **section 2** are administered in the same manner as the provisions of existing law governing Medicaid.

Existing law establishes the Autism Treatment Assistance Program within the Aging and Disability Services Division of the Department to provide and coordinate the provision of services to persons diagnosed or determined to have autism spectrum disorders through the age of 19 years. (NRS 427A.875) **Section 3** of this bill requires the Program to: (1) publish certain information on the Internet website of the Program to assist persons in obtaining services for autism spectrum disorders; and (2) when there is a waiting list for services from the Program, use a risk assessment tool to assess and identify persons on the waiting list with higher needs.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** (Deleted by amendment.)

**Sec. 2.** Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Director shall:**

*(a) Biennially establish and include in the State Plan for Medicaid rates of reimbursement which are provided on a fee-for-service basis for services provided by behavior analysts, assistant behavior analysts and registered behavior technicians that are comparable to rates of reimbursement paid by Medicaid programs in other states for the services of those providers.*

*(b) Establish reasonable limits on the number of hours that a behavior analyst, assistant behavior analyst or registered behavior technician is authorized to bill for services provided to a recipient of Medicaid in a 24-hour period.*

**2. The Division shall provide training to behavior analysts, assistant behavior analysts and registered behavior technicians who provide services to recipients of Medicaid concerning the limits established pursuant to paragraph (b) of subsection 1.**

**3. On or before January 31 of each year, the Division shall:**

*(a) Compile a report concerning the provision of services to recipients of Medicaid who have been diagnosed with an autism spectrum disorder. The report must include:*

1       (1) *The number of recipients of Medicaid who were newly diagnosed*  
2 *with an autism spectrum disorder during the immediately preceding year and the*  
3 *number of those recipients for whom assistance with care management was*  
4 *provided;*

5       (2) *The number of recipients of Medicaid diagnosed with an autism*  
6 *spectrum disorder for whom assistance with care management was reimbursed*  
7 *through Medicaid during the immediately preceding year;*

8       (3) *The number of recipients of Medicaid for whom the first claim for*  
9 *reimbursement for the services of a registered behavior technician was submitted*  
10 *during the immediately preceding year;*

11       (4) *The number of assessments or evaluations by a behavior analyst that*  
12 *were reimbursed through Medicaid during the immediately preceding year;*

13       (5) *The total number of claims for applied behavior analysis services*  
14 *provided to recipients of Medicaid made during the immediately preceding year;*

15       (6) *For the immediately preceding year, the average times that elapsed*  
16 *between claims for each step of the process that a recipient of Medicaid must*  
17 *undergo to receive treatment from a registered behavior technician, beginning*  
18 *with initial diagnosis with an autism spectrum disorder and, including, without*  
19 *limitation, comprehensive diagnosis with an autism spectrum disorder, evaluation*  
20 *and treatment by a behavior analyst and treatment by a registered behavior*  
21 *technician;*

22       (7) *The number of recipients of Medicaid receiving services through*  
23 *Medicaid managed care who were, at the end of the immediately preceding year,*  
24 *on a wait list for applied behavior analysis services;*

25       (8) *An assessment of the adequacy of the network of each health*  
26 *maintenance organization or managed care organization that provides services to*  
27 *recipients of Medicaid under the State Plan for Medicaid for applied behavior*  
28 *analysis services, as compared to the applicable standard for network adequacy*  
29 *set forth in the contract between the health maintenance organization or*  
30 *managed care organization and the Division;*

31       (9) *The number of behavior analysts and registered behavior technicians*  
32 *who are currently providing services to recipients of Medicaid who receive*  
33 *services through each health maintenance organization or managed care*  
34 *organization described in subparagraph (8); and*

35       (10) *The number of behavior analysts and registered behavior*  
36 *technicians who provide services to recipients of Medicaid who do not receive*  
37 *services through managed care.*

38       (b) *Submit the report to the Director of the Legislative Counsel Bureau for*  
39 *transmittal to:*

40       (1) *In odd-numbered years, the next regular session of the Legislature;*  
41 *and*

42       (2) *In even-numbered years, the Legislative Committee on Health Care.*

43       4. *As used in this section:*

44       (a) *“Applied behavior analysis services” means the services of a behavior*  
45 *analyst, assistant behavior analyst or registered behavior technician.*

46       (b) *“Assistant behavior analyst” has the meaning ascribed to it in NRS*  
47 *437.005.*

48       (c) *“Behavior analyst” has the meaning ascribed to it in NRS 437.010.*

49       (d) *“Registered behavior technician” has the meaning ascribed to it in NRS*  
50 *437.050.*

51       **Sec. 3.** NRS 427A.875 is hereby amended to read as follows:

52       427A.875 1. There is hereby established the Autism Treatment Assistance  
53 Program within the Division to serve as the primary autism program within the

Department and to provide and coordinate the provision of services to persons diagnosed or determined, including, without limitation, through the use of a standardized assessment, to have autism spectrum disorders through the age of 19 years.

2. The Autism Treatment Assistance Program shall:

(a) Prescribe an application process for parents and guardians of persons with autism spectrum disorders to participate in the Program.

(b) Provide for the development of a plan of treatment for persons who participate in the Program.

(c) Promote the use of evidence-based treatments which are cost effective and have been proven to improve treatment of autism spectrum disorders.

(d) Educate parents and guardians of persons with autism spectrum disorders on autism spectrum disorders and the assistance that may be provided by the parent or guardian to improve treatment outcomes.

(e) Establish and use a system for assessing persons with autism spectrum disorders to determine a baseline to measure the progress of and prepare a plan for the treatment of such persons.

(f) Assist parents and guardians of persons with autism spectrum disorders in obtaining public services that are available for the treatment of autism spectrum disorders.

*(g) Publish on an Internet website maintained by the Autism Treatment Assistance Program:*

*(1) Specific guidance for obtaining a diagnosis for an autism spectrum disorder and obtaining public services that are available for the treatment of autism spectrum disorders, including, without limitation, applied behavior analysis services; and*

*(2) A list of providers in this State who are qualified to diagnose autism spectrum disorders.*

*(h) When there is a waiting list for services from the Autism Treatment Assistance Program, use a risk assessment tool to assess and identify persons on the waiting list with higher needs for the purpose of ensuring the proper delivery of services to each person, regardless of the difficulty of serving that person.*

3. A plan of treatment developed for a person who participates in the Program pursuant to paragraph (b) of subsection 2 must:

(a) Identify the specific behaviors of the person to be addressed and the expected outcomes.

(b) Include, without limitation:

(1) Preparations for transitioning the person from one provider of treatment to another or from one public program to another, as the needs of the person require through the age of 19 years; and

(2) Measures to ensure that, to the extent practicable, the person receives appropriate services from another entity after the person reaches 20 years of age.

(c) Be revised to address any change in the needs of the person.

4. The policies of the Autism Treatment Assistance Program and any services provided by the Program must be developed in cooperation with and be approved by the Commission.

5. As used in this section, "autism spectrum disorder" means a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or the edition thereof that was in effect at the time the condition was diagnosed or determined.

**Sec. 4.** NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

- (1) The Administrator of the Aging and Disability Services Division;
- (2) The Administrator of the Division of Welfare and Supportive Services;
- (3) The Administrator of the Division of Child and Family Services;
- (4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, **and section 2 of this act**, 422.580, 432.010 to 432.133, inclusive, 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department.

**Sec. 4.2.** 1. There is hereby appropriated from the State General Fund to the Division of Health Care Financing and Policy of the Department of Health and Human Services ~~(the sum of \$2,701,391)~~ to pay the increased reimbursement rates

for registered behavior technicians provided under Medicaid and the Children's Health Insurance Program pursuant to section 4.8 of this act ~~the following~~ sums:

For the Fiscal Year 2021-2022 ..... \$327,476  
For the Fiscal Year 2022-2023 ..... \$1,626,586

2. Expenditure of the following sums not appropriated from the State General Fund or the State Highway Fund is hereby authorized by the Division of Health Care Financing and Policy of the Department of Health and Human Services for the same purpose as set forth in subsection 1:

For the Fiscal Year 2021-2022 ..... \$654,260  
For the Fiscal Year 2022-2023 ..... \$2,878,393

3. Any ~~remaining~~ balance of the ~~appropriation made~~ sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30, ~~2023~~ of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

**Sec. 4.5.** 1. There is hereby appropriated from the State General Fund to the Division of Health Care Financing and Policy of the Department of Health and Human Services ~~the sum of \$109,838~~ to pay personnel, operating, computer programming and equipment costs to carry out the provisions of section 4.8 of this act as they apply to Medicaid and the Children's Health Insurance Program ~~the following sums:~~

For the Fiscal Year 2021-2022 ..... \$42,595  
For the Fiscal Year 2022-2023 ..... \$52,243

2. Expenditure of the following sums not appropriated from the State General Fund or the State Highway Fund is hereby authorized by the Division of Health Care Financing and Policy of the Department of Health and Human Services for the same purpose as set forth in subsection 1:

For the Fiscal Year 2021-2022 ..... \$46,596  
For the Fiscal Year 2022-2023 ..... \$52,243

3. Any ~~remaining~~ balance of the ~~appropriation made~~ sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30, ~~2023~~ of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

**Sec. 4.7.** 1. There is hereby appropriated from the State General Fund to the Aging and Disability Services Division of the Department of Health and Human Services to pay the increased reimbursement rates for registered behavior technicians provided under the Autism Treatment Assistance Program pursuant to section 4.8 of this act the following sums:

For the Fiscal Year 2021-2022 ..... \$306,501  
For the Fiscal Year 2022-2023 ..... \$613,002

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

**Sec. 4.8.** 1. On or before October 1, 2021, the Department of Health and Human Services shall submit to the United States Secretary of Health and Human Services a request to amend the State Plan for Medicaid to increase the rate of reimbursement that is provided on a fee-for-service basis pursuant to the State Plan for Medicaid for services provided by a registered behavior technician to ~~the~~ at least \$52 for each hour that such services are provided, or as close to that amount as the Secretary approves. The request must be supported using methods for determining reimbursement rates accepted by the Secretary.

2. If the amendment to the State Plan for Medicaid requested pursuant to subsection 1 is approved:

(a) The increased rate of reimbursement established by the amendment must become effective on January 1, 2022, or when approved if after that date; and

(b) The Autism Treatment Assistance Program established by NRS 427A.875 and the Children's Health Insurance Program must provide a rate of reimbursement for services provided by a registered behavior technician equal to or greater than the rate of reimbursement provided for such services pursuant to the State Plan for Medicaid beginning on January 1, 2022, or when approved if after that date.

3. As used in this section, "registered behavior technician" has the meaning ascribed to it in NRS 437.050.

**Sec. 5.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 6.** 1. This section and section 5 of this act become effective upon passage and approval.

2. Sections 1 ~~1.1~~ and 4.2 ~~1.1, 4.5 and~~ to 4.8, inclusive, of this act become effective on July 1, 2021.

3. Sections 2, 3 and 4 of this act become effective on July 1, 2023.