

2016 State Autism Profiles OREGON

DEMOGRAPHICS

In 2000, 2,945 or 3.92% of children ages 3-21 who received special education services in Oregon have autism. In 2014-2015, 9,391 or 11.3% of children with disabilities ages 3-21 who received special education services in Oregon have autism.

Table 1-1: IDEA Part B - Children with Autism in Oregon for 2000-2001 and 2014-2015
(Child Count by Age Group)

| | 2000-2001 | 2014-2015 |
|----------|-----------|-----------|
| Age 3-5 | 429 | 1,027 |
| Age 6-21 | 2,516 | 8,364 |
| Age 3-21 | 2,945 | 9,391 |

Source: Reported by the State of Oregon in accordance with Section 618 of IDEA to U.S. Department of Education, Office of Special Education Programs

Table 1-2: IDEA Part B - Children with Disabilities in Oregon for 2000-2001 and 2014-2015
(Child Count by Age Group)

| | 2000-2001 | 2014-2015 |
|-----------|-----------|-----------|
| Age 3-5 | 6,926 | 9,987 |
| Age 6-11 | 34,097 | 34,616 |
| Age 12-17 | 31,288 | 34,380 |
| Age 18-21 | 2,893 | 4,224 |
| Age 6-21 | 68,278 | 73,220 |
| Age 3-21 | 75,204 | 83,207 |

Source: Reported by the State of Oregon in accordance with Section 618 of IDEA to U.S. Department of Education, Office of Special Education Programs

STATE TASK FORCE

Oregon Commission on Autism Spectrum Disorders

On March 25, 2009, Governor Ted Kulongoski signed an executive order establishing the Oregon Commission on Autism Spectrum Disorders to develop and monitor a ten-year strategic plan to address the needs of those with ASD. The Commission consists of persons with autism spectrum disorders and their family members, as well as representatives from the education, medical, insurance, and lawmaking communities.

<http://www.orcommissionasd.org/>

Caring for Oregon’s Children with Autism Spectrum Disorder Task Force

In 1999, S.B. 765 was signed into law, creating the “Caring for Oregon’s Children with Autism Spectrum Disorder Task Force.” The task force was asked to review the Oregon Department of Education’s autism implementation plan and other related educational services for students with autism. Additionally, the task force was asked to provide legislative recommendations for the development and implementation of a continuum of educational services, such as a residential school, and to make recommendations for potential funding sources, selected sites, scope of services, and curricula. There were 10 members, including parents of a child with autism, state officials, educators, and other professionals with an interest in autism. In 2000, the task force prepared a final report of recommendations that addressed ways to improve and coordinate educational services to students with autism.

<http://www.ode.state.or.us/groups/supportstaff/specializedservices/autism/finalrec1.pdf>

STATE INSURANCE COVERAGE

On August 14, 2013, Governor Kitzhaber signed S.B. 365 into law requiring providers of state-regulated insurance plans to provide coverage for the diagnosis and treatment of individuals with autism spectrum disorders. The new law establishes requirements for state-regulated health plans to approve and manage autism treatment, including applied behavior analysis (ABA) and any other medical or mental health

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services identified in an individualized treatment plan. The law does not impose any age limits on coverage although treatment must begin before age 9. The maximum ABA covered benefit is 25 hours per week as long as medically necessary, regardless of age. The law, which requires coverage of ABA, took effect in 2015 for public employees and 2016 for state-regulated health plans. (*OR Rev. Stat. 743A.190*)

<https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB365/Enrolled>

In June 2007, H.B. 2918 passed and was signed into law on July 31, 2007, requiring health insurance coverage for the treatment of pervasive developmental disorders for children up to 18 years of age. All medically necessary services, including rehabilitation services, are covered. Rehabilitation services include physical therapy, occupational therapy, or speech therapy services. Under the law, pervasive developmental disorder is defined as a neurological condition that includes autism, Asperger's syndrome, developmental delay, developmental disability or intellectual disability. Treatment of pervasive developmental disorders is subject to the same terms and conditions as physical illnesses, including copayments, deductibles, or coinsurance. (*OR Rev. Stat. 743A.190*)

Additionally, Oregon's Mental Health Parity Law, enacted in 2005, requires group health insurance policies to "provide coverage for expenses arising from treatment for ... mental or nervous conditions at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions..." Autism is legally considered to be a "mental or nervous condition" for the purposes of this law. (*OR Rev. Stat. §743A.168*)

ESSENTIAL HEALTH BENEFITS

Oregon has a state autism mandate. However, the benchmark plan does not have any provisions for autism services, creating a point of dispute. The Oregon legislative counsel's office believes that the plans offered on the state-run exchange must offer autism services in accordance with the state mandate. Insurance companies disagree, and the Insurance Division has not issued any guidance either way. In 2010, the Oregon District Court ruled that applied behavior analysis (ABA) is a covered benefit under PacificSource plans. Though the case law appears to indicate, and the legislature intends, that the state mandate be included in the exchange, until a rule is handed down by the state or HHS, the status quo is likely to remain.

(PacificSource Health Plans; Preferred CoDeduct Value)

MEDICAID

The passage of S.B. 365 (*see above: State Insurance Coverage*) also affects Medicaid coverage under the Oregon Health Plan. The law requires review by the Oregon Health Evidence Review Commission (HERC) in order to update the state's prioritized list of health services covered through Medicaid. HERC had advised against coverage of applied behavior analysis (ABA) in a 2008 review.

LICENSING AND PROFESSIONAL REQUIREMENTS

The passage of S.B. 365 (*see above: State Insurance Coverage*) also created the Behavior Analysis Regulatory Board to license providers of applied behavior analysis (ABA) which requires licensure of all individuals seeking reimbursement for ABA from health benefit plans, health care service contractor, or public benefit boards. Some grandfather provisions apply for practitioners previously offering services in the state.

<https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB365/Enrolled>
<http://www.oregon.gov/OHLA/BARB/pages/index.aspx>

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OREGON

EDUCATION PROGRAMS AND ACTIVITIES

The Oregon Department of Education allocates additional funding in support of students with autism through: (1) Regional Programs, and (2) The Oregon Program Autism Training Sites and Supports (OrPATS). Regional Programs work in collaboration with local school districts, early intervention and early childhood special education programs, families, and community agencies to provide specialized educational supports for children with low-incidence disabilities, which, under the Oregon Administrative Rule 581-015-2540, includes Autism Spectrum Disorder. The eight Regional Programs consultative services are provided within the districts' geographic boundaries focusing on capacity building, training, and coaching in evidence-based practices. Districts also have access to assistive-technology when IEP teams determine specific equipment is needed. The Regional Programs and Oregon Autism Commission developed an ASD Program Self-Assessment and Action Plan which can be accessed by school districts through an on-line tool developed by OrPATS to assist school districts in identifying the level of implementation of the evidence-based strategies that support students with ASD.

In collaboration with Regional Programs and local school districts, OrPATS develops, pilots, and implements a statewide model of support. The OrPATS Project maintains 42 training sites throughout the state across all age levels, which serve to model evidence-based practices. OrPATS also works with Regional Programs to provide a "Train the Trainer" model for school districts, and has created an online general education resource system for supporting the inclusion of students with autism into the general education setting.

Oregon Regional Programs: <http://www.ode.state.or.us/search/page/?id=2826>

OrPATS: <http://www.orpats.org>

Legislation

S.B. 567 was introduced in the 2011 session to provide standards for a teaching endorsement in autism spectrum disorder. To qualify, teachers must have an endorsement to teach special education and have at least three years of experience teaching children with autism spectrum disorder. School psychologists and speech-language pathologists are also eligible for this endorsement. S.B. 567 was referred to the Committee on Education and Workforce Development. No further action was taken.

ADMINISTRATIVE AGENCIES AND COURTS

In *A.F. and A.P. v Providence Health Plan*, a federal court judge in Oregon ruled that Providence Health plans wrongly denied insurance coverage for ABA services under federal and state mental health parity laws. Initially Providence had denied the service based on a claim that it was "experimental." After the insurance division's own team of doctors reversed that finding, Providence denied based on a policy exclusion for treatment of developmental disabilities. The federal court ruled that the DD exclusion covers mental health conditions at a different level than medical ones and thus violated the law. http://www.autismspeaks.org/sites/default/files/docs/gr/a_f-decision.pdf

Following the decision in *A.F. and A.P. v Providence Health Plan*, the Oregon State Insurance Division issued new bulletins requiring health insurers to cover ABA services. Insurers must determine coverage of mental health and chemical dependency conditions in the same manner they do for physical medical conditions and that autism spectrum disorder is a mental health claim. An insurer may not categorically deny treatment for ABA therapy on the basis that the treatment is experimental or investigational. Coverage decisions must be made on the basis of individualized determinations of medical necessity in the individual case. An insurer may not apply a categorical exclusion (such as exclusions for developmental, social or educational therapies) that results in a denial of all ABA or other medically

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necessary treatment. Finally, the provisions of SB 365, the state's autism insurance mandate, that establish quantitative standards – the 25-hour per week coverage standard and the nine-year old age standard – are floors, not limitations on ABA coverage.

<http://www.oregon.gov/DCBS/insurance/legal/bulletins/Documents/bulletin2014-02.pdf>

In June 2012, the Portland City Council approved a new health benefits package for city employees and their dependents. Those now covered by Portland's health insurance plans will be able to receive effective, timely medical treatment for autism, thereby extending autism insurance benefits, including coverage for applied behavior analysis (ABA).

STATE LEGISLATIVE CALENDAR

The Legislature convenes annually in February at the State Capitol in Salem, but sessions may not exceed 160 days in odd-numbered years and 35 days in even-numbered years. The 2016 session convened in Regular Session on February 1, 2016 and adjourned on March 3, 2017. The 2017 session is expected to convene in February 2017 and adjourn in March 2017.

<https://www.oregonlegislature.gov/>

Sponsors of Autism Legislation

Sen. Chris Edwards (D-Eugene) District 7

Sen. Peter Courtney (D-Salem) District 11

Rep. Peter Buckley (D-Ashland) District 5

Rep. Paul Holvey (D-Eugene) District 8