S T A T E  O F  N E W  Y O R K

S. 4005 A. 6305

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

March 11, 2011

IN SENATE -- Introduced by Sens. FUSCHILLO, McDONALD, BRESLIN, DUANE, ADAMS, ADDABBO, AVELLA, BALL, BONACIC, DeFRANCISCO, DILAN, ESPAILLAT, FARLEY, FLANAGAN, GALLIVAN, GOLDEN, GRIFFO, GRISANTI, HANNON, HASSELL-THOMPSON, JOHNSON, KLEIN, KRUEGER, KRUGER, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, MONTGOMERY, NOZZOLIO, O'MARA, OPPENHEIMER, PARKER, PERKINS, RITCHIE, ROBACH, SAMPSON, SKELOS, STAVISKY, STEWART-COUSINS, VALESKY, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. MORELLE, SILVER, NOLAN, SCHROEDER, LAVINE, LUPARDO, GOTTFRIED, PERRY, HEVESI, CUSICK, J. RIVERA, SWEENEY, JAFFEE, ZEBROWSKI, GALEF, MAISEL, SPANO, ROSENTHAL, ARROYO, TITONE, WEPRIN, ABINANTI -- Multi-Sponsored by -- M. of A. BARCLAY, CALHOUN, DESTITO, ENGLEBRIGHT, JORDAN, LIFTON, MILLMAN, RAIA, SCHIMEL, TOBACCO -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to coverage for the screening, diagnosis and treatment of autism spectrum disorders

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

Section 1. Paragraph 25 of subsection (i) of section 3216 of the insurance law, as added by chapter 557 of the laws of 2006, is amended to read as follows:

(25) Every policy which provides coverage for hospital, surgical, or medical care coverage shall [not exclude] PROVIDE coverage for THE SCREENING, diagnosis and treatment of [medical conditions otherwise covered by the policy solely because the treatment is provided to diagnose or treat] autism spectrum [disorder] DISORDERS IN ACCORDANCE WITH THIS PARAGRAPH AND SHALL NOT EXCLUDE COVERAGE FOR THE SCREENING, DIAGNOSIS OR TREATMENT OF MEDICAL CONDITIONS OTHERWISE COVERED BY THE POLICY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES, COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY. NO INSURER SHALL TERMINATE COVERAGE OR REFUSE TO DELIVER, EXECUTE, ISSUE, AMEND, ADJUST, OR RENEW COVERAGE TO AN INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH ONE OF THE AUTISM SPECTRUM DISORDERS OR HAS RECEIVED TREATMENT FOR AUTISM SPECTRUM DISORDERS. COVERAGE SHALL BE SUBJECT TO UTILIZATION REVIEW AND EXTERNAL APPEALS OF HEALTH CARE SERVICES PURSUANT TO ARTICLE FORTY-NINE OF THIS CHAPTER AS WELL AS, CASE MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

(A) For purposes of this [section,] PARAGRAPH:

(I) "autism spectrum disorder" means a GROUP OF neurobiological [condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder.] CONDITIONS THAT INCLUDE AUTISTIC DISORDER, ASPERGER'S DISORDER, RETT'S DISORDER, CHILDHOOD DISINTEGRATIVE DISORDER, AND PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (PDD-NOS), AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS.

(II) "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.

(III) "BEHAVIORAL HEALTH TREATMENT" MEANS PROFESSIONAL, COUNSELING, AND GUIDANCE SERVICES AND TREATMENT PROGRAMS, INCLUDING APPLIED BEHAVIOR ANALYSIS WHEN PROVIDED OR SUPERVISED BY A BOARD CERTIFIED BEHAVIOR ANALYST, THAT ARE NECESSARY TO DEVELOP, MAINTAIN, AND RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE FUNCTIONING OF AN INDIVIDUAL.

(IV) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS THE ASSESSMENT, EVALUATIONS, OR TESTS TO DIAGNOSE WHETHER AN INDIVIDUAL HAS ONE OF THE AUTISM SPECTRUM DISORDERS.

(V) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A LICENSED PHYSICIAN AND ANY HEALTH-RELATED SERVICES TO DETERMINE THE NEED OR EFFECTIVENESS OF THE MEDICATIONS.

(VI) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHIATRIST LICENSED IN THE STATE IN WHICH THE PSYCHIATRIST PRACTICES.

(VII) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHOLOGIST LICENSED IN THE STATE IN WHICH THE PSYCHOLOGIST PRACTICES.

(VIII) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY LICENSED OR CERTIFIED SPEECH THERAPISTS, OCCUPATIONAL THERAPISTS, SOCIAL WORKERS, OR PHYSICAL THERAPISTS.

(IX) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" WILL INCLUDE THE FOLLOWING CARE AND RELATED EQUIPMENT PRESCRIBED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH ONE OF THE AUTISM SPECTRUM DISORDERS BY A LICENSED PHYSICIAN OR A LICENSED PSYCHOLOGIST:

(1) BEHAVIORAL HEALTH TREATMENT;

(2) PHARMACY CARE;

(3) PSYCHIATRIC CARE;

(4) PSYCHOLOGICAL CARE;

(5) THERAPEUTIC CARE; AND

(6) ANY OTHER MEDICAL CARE PROVIDED BY A LICENSED PHYSICIAN.

(B) COVERAGE UNDER THIS PARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT THE TREATMENT IS HABILITATIVE, NON-RESTORATIVE, OR EDUCATIONAL IN NATURE, UNLESS SUCH TREATMENTS ARE BEING PROVIDED TO THE COVERED PERSON PURSUANT TO AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES SHALL NOT AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE PRESCRIBED BY A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST.

(C) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE COVERAGE FOR OTHERWISE-COVERED SERVICES SOLELY ON THE BASIS THAT THE SERVICES CONSTITUTE EARLY INTERVENTION PROGRAM SERVICES PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-FIVE-A OF THIS ARTICLE OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(E) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A POLICY FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER CREDENTIALING.

(F) COVERAGE UNDER THIS SECTION SHALL NOT BE SUBJECT TO ANY LIMITS ON THE NUMBER OF VISITS AN INDIVIDUAL MAY MAKE FOR TREATMENT OF AUTISM SPECTRUM DISORDER. EXCEPT FOR INPATIENT SERVICES, IF AN INDIVIDUAL IS RECEIVING TREATMENT FOR AUTISM SPECTRUM DISORDERS, AN INSURER WILL HAVE THE RIGHT TO REQUEST A REVIEW OF THAT TREATMENT NOT MORE THAN ONCE EVERY TWELVE MONTHS UNLESS THE INSURER AND THE INDIVIDUAL'S LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST AGREE, ON AN INDIVIDUALIZED BASIS, THAT A MORE FREQUENT REVIEW IS NECESSARY. THE COST OF OBTAINING ANY REVIEW SHALL BE BORNE BY THE INSURER.

S 2. Paragraph 17 of subsection (l) of section 3221 of the insurance law, as added by chapter 557 of the laws of 2006, is amended to read as follows:

(17) [A] EVERY group or blanket accident [or] AND health insurance policy [or issuing a group or blanket policy] DELIVERED OR ISSUED for delivery in this state which provides coverage for hospital, surgical, or medical care coverage shall [not exclude] PROVIDE coverage for THE SCREENING, diagnosis and treatment of [medical conditions otherwise covered by the policy because the treatment is provided to diagnose or treat] autism spectrum [disorder] DISORDERS IN ACCORDANCE WITH THIS PARAGRAPH AND SHALL NOT EXCLUDE COVERAGE FOR THE SCREENING, DIAGNOSIS OR TREATMENT OF MEDICAL CONDITIONS OTHERWISE COVERED BY THE POLICY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES, COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT ARE

OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY. NO INSURER SHALL TERMINATE COVERAGE OR REFUSE TO DELIVER, EXECUTE, ISSUE, AMEND, ADJUST, OR RENEW COVERAGE TO AN INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH ONE OF THE AUTISM SPECTRUM DISORDERS OR HAS RECEIVED TREATMENT FOR AUTISM SPECTRUM DISORDERS. COVERAGE SHALL BE SUBJECT TO UTILIZATION REVIEW AND EXTERNAL APPEALS OF HEALTH CARE SERVICES PURSUANT TO ARTICLE FORTY-NINE OF THIS CHAPTER AS WELL AS CASE MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

(A) [For] FOR purposes of this [section,] PARAGRAPH:

(1) "autism spectrum disorder" means a GROUP OF neurobiological [condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] CONDITIONS THAT INCLUDE AUTISTIC DISORDER, ASPERGER'S DISORDER, RETT'S DISORDER, CHILDHOOD DISINTEGRATIVE DISORDER, AND PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (PDD-NOS), AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS.

(2) "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.

(3) "BEHAVIORAL HEALTH TREATMENT" MEANS PROFESSIONAL, COUNSELING, AND GUIDANCE SERVICES AND TREATMENT PROGRAMS, INCLUDING APPLIED BEHAVIOR ANALYSIS WHEN PROVIDED OR SUPERVISED BY A BOARD CERTIFIED BEHAVIOR ANALYST, THAT ARE NECESSARY TO DEVELOP, MAINTAIN, AND RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE FUNCTIONING OF AN INDIVIDUAL.

(4) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS THE ASSESSMENT, EVALUATIONS, OR TESTS TO DIAGNOSE WHETHER AN INDIVIDUAL HAS ONE OF THE AUTISM SPECTRUM DISORDERS.

(5) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A LICENSED PHYSICIAN AND ANY HEALTH-RELATED SERVICES TO DETERMINE THE NEED OR EFFECTIVENESS OF THE MEDICATIONS.

(6) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHIATRIST LICENSED IN THE STATE IN WHICH THE PSYCHIATRIST PRACTICES.

(7) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHOLOGIST LICENSED IN THE STATE IN WHICH THE PSYCHOLOGIST PRACTICES.

(8) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY LICENSED OR CERTIFIED SPEECH THERAPISTS, OCCUPATIONAL THERAPISTS, SOCIAL WORKERS OR PHYSICAL THERAPISTS.

(9) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" WILL INCLUDE THE FOLLOWING CARE AND RELATED EQUIPMENT PRESCRIBED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH ONE OF THE AUTISM SPECTRUM DISORDERS BY A LICENSED PHYSICIAN OR A LICENSED PSYCHOLOGIST:

(I) BEHAVIORAL HEALTH TREATMENT;

(II) PHARMACY CARE;

(III) PSYCHIATRIC CARE;

(IV) PSYCHOLOGICAL CARE;

(V) THERAPEUTIC CARE; AND

(VI) ANY OTHER MEDICAL CARE PROVIDED BY A LICENSED PHYSICIAN.

(B) COVERAGE UNDER THIS PARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT THE TREATMENT IS HABILITATIVE, NON-RESTORATIVE, OR EDUCATIONAL IN NATURE, UNLESS SUCH TREATMENTS ARE BEING PROVIDED TO THE COVERED PERSON PURSUANT TO AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE

OF THE EDUCATION LAW. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES SHALL NOT AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE PRESCRIBED BY A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST.

(C) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE COVERAGE FOR OTHERWISE-COVERED SERVICES SOLELY ON THE BASIS THAT THE SERVICES CONSTITUTE EARLY INTERVENTION PROGRAM SERVICES PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-FIVE-A OF THIS ARTICLE OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(E) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A POLICY FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER CREDENTIALING.

(F) COVERAGE UNDER THIS PARAGRAPH SHALL NOT BE SUBJECT TO ANY LIMITS ON THE NUMBER OF VISITS AN INDIVIDUAL MAY MAKE FOR TREATMENT OF AUTISM SPECTRUM DISORDER. EXCEPT FOR INPATIENT SERVICES, IF AN INDIVIDUAL IS RECEIVING TREATMENT FOR AUTISM SPECTRUM DISORDERS, AN INSURER WILL HAVE THE RIGHT TO REQUEST A REVIEW OF THAT TREATMENT NOT MORE THAN ONCE EVERY TWELVE MONTHS UNLESS THE INSURER AND THE INDIVIDUAL'S LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST AGREE, ON AN INDIVIDUALIZED BASIS, THAT A MORE FREQUENT REVIEW IS NECESSARY. THE COST OF OBTAINING ANY REVIEW SHALL BE BORNE BY THE INSURER.

S 3. Subsection (ee) of section 4303 of the insurance law, as added by chapter 557 of the laws of 2006, is amended to read as follows:

(ee) A medical expense indemnity corporation, a hospital service corporation or a health service corporation which provides coverage for hospital, surgical, or medical care coverage shall [not exclude] PROVIDE coverage for THE SCREENING, diagnosis and treatment of [medical conditions otherwise covered by the policy solely because the treatment is provided to diagnose or treat] autism spectrum [disorder] DISORDERS IN ACCORDANCE WITH THIS SUBSECTION AND SHALL NOT EXCLUDE COVERAGE FOR THE SCREENING, DIAGNOSIS OR TREATMENT OF MEDICAL CONDITIONS OTHERWISE COVERED BY THE POLICY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES, COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS UNDER THE CONTRACT. THIS SUBSECTION SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE CONTRACT. 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 ONE OF THE AUTISM SPECTRUM DISORDERS OR HAS RECEIVED TREATMENT FOR AUTISM SPECTRUM DISORDERS. COVERAGE SHALL BE SUBJECT TO UTILIZATION REVIEW AND EXTERNAL APPEALS OF

HEALTH CARE SERVICES PURSUANT TO ARTICLE FORTY-NINE OF THIS CHAPTER AS WELL AS CASE MANAGEMENT, OR OTHER MANAGED CARE PROVISIONS.

(A)(1) For purposes of this [section] SUBSECTION, "autism spectrum disorder" means a GROUP OF neurobiological [condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] CONDITIONS THAT INCLUDE AUTISTIC DISORDER, ASPERGER'S DISORDER, RETT'S DISORDER, CHILDHOOD DISINTEGRATIVE DISORDER, AND PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (PDD-NOS), AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS.

(2) "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.

(3) "BEHAVIORAL HEALTH TREATMENT" MEANS PROFESSIONAL, COUNSELING, AND GUIDANCE SERVICES AND TREATMENT PROGRAMS, INCLUDING APPLIED BEHAVIOR ANALYSIS WHEN PROVIDED OR SUPERVISED BY A BOARD CERTIFIED BEHAVIOR ANALYST, THAT ARE NECESSARY TO DEVELOP, MAINTAIN, AND RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE FUNCTIONING OF AN INDIVIDUAL.

(4) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS THE ASSESSMENT, EVALUATIONS, OR TESTS TO DIAGNOSE WHETHER AN INDIVIDUAL HAS ONE OF THE AUTISM SPECTRUM DISORDERS.

(5) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A LICENSED PHYSICIAN AND ANY HEALTH-RELATED SERVICES TO DETERMINE THE NEED OR EFFECTIVENESS OF THE MEDICATIONS.

(6) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHIATRIST LICENSED IN THE STATE IN WHICH THE PSYCHIATRIST PRACTICES.

(7) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHOLOGIST LICENSED IN THE STATE IN WHICH THE PSYCHOLOGIST PRACTICES.

(8) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY LICENSED OR CERTIFIED SPEECH THERAPISTS, OCCUPATIONAL THERAPISTS, SOCIAL WORKERS OR PHYSICAL THERAPISTS.

(9) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" WILL INCLUDE THE FOLLOWING CARE AND RELATED EQUIPMENT PRESCRIBED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH ONE OF THE AUTISM SPECTRUM DISORDERS BY A LICENSED PHYSICIAN OR A LICENSED PSYCHOLOGIST:

(I) BEHAVIORAL HEALTH TREATMENT;

(II) PHARMACY CARE;

(III) PSYCHIATRIC CARE;

(IV) PSYCHOLOGICAL CARE;

(V) THERAPEUTIC CARE; AND

(VI) ANY OTHER MEDICAL CARE PROVIDED BY A LICENSED PHYSICIAN.

(B) COVERAGE UNDER THIS SUBSECTION SHALL NOT BE DENIED ON THE BASIS THAT THE TREATMENT IS HABILITATIVE, NON-RESTORATIVE, OR EDUCATIONAL IN NATURE, UNLESS SUCH TREATMENTS ARE BEING PROVIDED TO THE COVERED PERSON PURSUANT TO AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVIDUAL EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES SHALL NOT AFFECT COVERAGE UNDER THE POLICY FOR SERVICES

PROVIDED ON A SUPPLEMENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE PRESCRIBED BY A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST.

(C) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(D) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE COVERAGE FOR OTHERWISE-COVERED SERVICES SOLELY ON THE BASIS THAT THE SERVICES CONSTITUTE EARLY INTERVENTION PROGRAM SERVICES PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-FIVE-A OF THIS CHAPTER OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(E) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PREVENT A POLICY FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER CREDENTIALING.

(F) COVERAGE UNDER THIS SUBSECTION SHALL NOT BE SUBJECT TO ANY LIMITS ON THE NUMBER OF VISITS AN INDIVIDUAL MAY MAKE FOR TREATMENT OF AUTISM SPECTRUM DISORDER. EXCEPT FOR INPATIENT SERVICES, IF AN INDIVIDUAL IS RECEIVING TREATMENT FOR AUTISM SPECTRUM DISORDERS, AN INSURER WILL HAVE THE RIGHT TO REQUEST A REVIEW OF THAT TREATMENT NOT MORE THAN ONCE EVERY TWELVE MONTHS UNLESS THE INSURER AND INDIVIDUAL'S LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST AGREE, ON AN INDIVIDUALIZED BASIS, THAT A MORE FREQUENT REVIEW IS NECESSARY. THE COST OF OBTAINING ANY REVIEW SHALL BE BORNE BY THE INSURER.

S 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such date.