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

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I N S E N A T E

March 5, 2010

Introduced by Sens. BRESLIN, DUANE, C. JOHNSON, FOLEY, FUSCHILLO, HUNTLEY, MORAHAN, McDONALD, HASSELL-THOMPSON, ADAMS, ADDABBO, BONACIC, DIAZ, DILAN, GRIFFO, KRUEGER, KRUGER, LAVALLE, MARCELLINO, MONTGOMERY, NOZZOLIO, ONORATO, OPPENHEIMER, PADAVAN, PARKER, PERKINS, ROBACH, SALAND, SAMPSON, SCHNEIDERMAN, SERRANO, SQUADRON, STAVISKY, STEWART-COUSINS, THOMPSON, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

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

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 IN ACCORDANCE WITH THIS PARAGRAPH. 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. COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

(A) For purposes of this [section] PARAGRAPH, "autism spectrum disorder" means a GROUP OF neurobiological [condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL

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

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DISORDERS, OR A GROUP POSSESSING SUBSTANTIALLY THE SAME CHARACTERISTICS AS PERVASIVE DEVELOPMENTAL DISORDERS.

(B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTENDENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMISSIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS SHALL BE EVIDENCE-BASED AND CLINICALLY PROVEN. UNTIL SUCH TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW OR AN INDIVIDUALIZED EDUCATION PROGRAM UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN OR AN INDIVIDUALIZED EDUCATION PROGRAM SHALL NOT AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED MEDICALLY NECESSARY.

(C) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW OR AN INDIVIDUALIZED EDUCATION PROGRAM UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW.

(D) 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.

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 for delivery in this state] 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 IN ACCORDANCE WITH THIS PARAGRAPH. 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. COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

(A) For purposes of this [section] PARAGRAPH, "autism spectrum disorder" means a GROUP OF neurobiological [condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL

DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL DISORDERS, OR A GROUP POSSESSING SUBSTANTIALLY THE SAME CHARACTERISTICS AS PERVASIVE DEVELOPMENTAL DISORDERS.

(B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTENDENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMISSIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS SHALL BE EVIDENCE-BASED AND CLINICALLY PROVEN. UNTIL SUCH TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW OR AN INDIVIDUALIZED EDUCATION PROGRAM UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN OR AN INDIVIDUALIZED EDUCATION PROGRAM SHALL NOT AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED MEDICALLY NECESSARY.

(C) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW OR AN INDIVIDUALIZED EDUCATION PROGRAM UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW.

(D) 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.

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 IN ACCORDANCE WITH THIS SUBSECTION. 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. COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

(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 DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL

DISORDERS, OR A GROUP POSSESSING SUBSTANTIALLY THE SAME CHARACTERISTICS AS PERVASIVE DEVELOPMENTAL DISORDERS.

(2) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTENDENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMISSIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER PURSUANT TO THIS SUBSECTION. SUCH TREATMENT AND THERAPY OPTIONS SHALL BE EVIDENCE-BASED AND CLINICALLY PROVEN. UNTIL SUCH TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS SUBSECTION. COVERAGE FOR BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS PARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW OR AN INDIVIDUALIZED EDUCATION PROGRAM UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN OR AN INDIVIDUALIZED EDUCATION PROGRAM SHALL NOT AFFECT COVERAGE UNDER THE CONTRACT FOR SERVICES PROVIDED ON A SUPPLEMENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED MEDICALLY NECESSARY.

(C) THIS SUBSECTION SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW OR AN INDIVIDUALIZED EDUCATION PROGRAM UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW.

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

S 4. Section 2500-j of the public health law is amended by adding a new subdivision 4 to read as follows:

4. THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF INSURANCE, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMISSIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER PURSUANT TO SECTIONS THIRTY-TWO HUNDRED SIXTEEN, THIRTY-TWO HUNDRED TWENTY-ONE AND FORTY-THREE HUNDRED THREE OF THE INSURANCE LAW.

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 or contracts issued, renewed, modified, altered or amended on and after such effective date.