

10372

I N A S S E M B L Y

March 19, 2010

Introduced by M. of A. MORELLE, SILVER, WEISENBERG, NOLAN, ORTIZ,
SCHROEDER -- read once and referred 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 spec-
trum disorder

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

1 Section 1. Paragraph 25 of subsection (i) of section 3216 of the
2 insurance law, as added by chapter 557 of the laws of 2006, is amended
3 to read as follows:
4 (25) Every policy which provides coverage for hospital, surgical, or
5 medical care coverage shall [not exclude] PROVIDE coverage for THE
6 SCREENING, diagnosis and treatment of [medical conditions otherwise
7 covered by the policy solely because the treatment is provided to diag-
8 nose or treat] autism spectrum disorder IN ACCORDANCE WITH THIS PARA-
9 GRAPH. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES, COPAYMENTS
10 AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND
11 SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS UNDER THE POLI-
12 CY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT
13 ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY. COVERAGE MAY
14 BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE
15 REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE
16 PROVISIONS.
17 (A) For purposes of this [section] PARAGRAPH, "autism spectrum disor-
18 der" means a GROUP OF neurobiological [condition that includes autism,
19 Asperger syndrome, Rett's syndrome, or pervasive developmental disorder]
20 CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL
21 DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL
22 DISORDERS.
23 (B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTEN-
24 DENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMIS-
25 SIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
26 TIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL
27 IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE
28 REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM
29 DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS
30 SHALL BE EVIDENCE-BASED, PEER-REVIEWED AND CLINICALLY PROVEN. UNTIL SUCH

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

LBD16099-03-0

1 TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY
2 PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN
3 ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF
4 AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND
5 THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR
6 MEDICALLY NECESSARY BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS
7 SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE
8 EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE
9 PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION
10 TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDI-
11 VIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW
12 OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE
13 OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. THE PROVISION OF
14 SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVID-
15 UALIZED EDUCATION PLAN OR AN INDIVIDUALIZED SERVICE PLAN SHALL NOT
16 AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL
17 BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED
18 MEDICALLY NECESSARY.

19 (C) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO
20 PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE
21 PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC
22 HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE
23 OF THE EDUCATION LAW OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGU-
24 LATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
25 TIES.

26 (D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A POLICY
27 FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO
28 SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER
29 CREDENTIALING. THE COMMISSIONER OF HEALTH SHALL ENSURE THAT PROVIDER
30 NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

31 S 2. Paragraph 17 of subsection (1) of section 3221 of the insurance
32 law, as added by chapter 557 of the laws of 2006, is amended to read as
33 follows:

34 (17) [A] EVERY group or blanket accident [or] AND health insurance
35 policy [or issuing a group or blanket policy for delivery in this state]
36 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE which provides coverage
37 for hospital, surgical, or medical care coverage shall [not exclude]
38 PROVIDE coverage for THE SCREENING, diagnosis and treatment of [medical
39 conditions otherwise covered by the policy because the treatment is
40 provided to diagnose or treat] autism spectrum disorder IN ACCORDANCE
41 WITH THIS PARAGRAPH. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES,
42 COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPER-
43 INTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS
44 UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE
45 BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY.
46 COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES,
47 INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER
48 MANAGED CARE PROVISIONS.

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

55 (B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTEN-
56 DENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMIS-

1 SIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
2 TIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL
3 IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE
4 REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM
5 DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS
6 SHALL BE EVIDENCE-BASED, PEER-REVIEWED AND CLINICALLY PROVEN. UNTIL SUCH
7 TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY
8 PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN
9 ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF
10 AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND
11 THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR
12 MEDICALLY NECESSARY BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS
13 SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE
14 EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE
15 PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION
16 TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDI-
17 VIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW
18 OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE
19 OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. THE PROVISION OF
20 SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVID-
21 UALIZED EDUCATION PLAN OR AN INDIVIDUALIZED SERVICE PLAN SHALL NOT
22 AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL
23 BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED
24 MEDICALLY NECESSARY.

25 (C) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO
26 PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE
27 PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC
28 HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE
29 OF THE EDUCATION LAW OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGU-
30 LATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
31 TIES.

32 (D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A POLICY
33 FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO
34 SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER
35 CREDENTIALING. THE COMMISSIONER OF HEALTH SHALL ENSURE THAT PROVIDER
36 NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

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

39 (ee) A medical expense indemnity corporation, a hospital service
40 corporation or a health service corporation which provides coverage for
41 hospital, surgical, or medical care coverage shall [not exclude] PROVIDE
42 coverage for THE SCREENING, diagnosis and treatment of [medical condi-
43 tions otherwise covered by the policy solely because the treatment is
44 provided to diagnose or treat] autism spectrum disorder IN ACCORDANCE
45 WITH THIS SUBSECTION. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCT-
46 IBLES, COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE
47 SUPERINTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENE-
48 FITS UNDER THE CONTRACT. THIS SUBSECTION SHALL NOT BE CONSTRUED AS
49 LIMITING THE BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL
50 UNDER THE CONTRACT. COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF
51 HEALTH CARE SERVICES, INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE
52 MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

53 (1) For purposes of this [section] SUBSECTION, "autism spectrum disor-
54 der" means a GROUP OF neurobiological [condition that includes autism,
55 Asperger syndrome, Rett's syndrome, or pervasive developmental disorder]
56 CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL

DISORDERS IV REVISED, OR ITS SUCCESSOR, 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, PEER-REVIEWED 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 MEDICALLY NECESSARY 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, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. THE PROVISION OF SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN OR AN INDIVIDUALIZED EDUCATION PLAN OR AN INDIVIDUALIZED SERVICE PLAN 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.

(3) 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, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES.

(4) 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. THE COMMISSIONER OF HEALTH SHALL ENSURE THAT PROVIDER NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

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.