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

S. 1175 A. 3332

2009-2010 Regular Sessions

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

January 27, 2009

IN SENATE -- Introduced by Sens. HUNTLEY, MONSERRATE, ONORATO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. BALL, ALFANO, BURLING, CASTRO, DUPREY, ERRIGO, KOLB, MOLINARO, QUINN, SCOZZAFAVA, THIELE, TOBACCO, WALKER, WEISENBERG -- Multi-Sponsored by -- M. of A. RABBITT, RUSSELL, WRIGHT -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring health insurance coverage of the diagnosis and treatment of autism spectrum disorders in persons under twenty-one years of age

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) (A) Every policy which provides coverage for hospital, surgical, or medical care coverage shall [not exclude] PROVIDE coverage for THE 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 RENDERED TO COVERED PERSONS UNDER THE AGE OF TWENTY-ONE YEARS.

(B) For purposes of this [section, "autism] PARAGRAPH:

(I) "AUTISM spectrum [disorder" means a neurobiological condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] DISORDERS" MEANS PERVASIVE DEVELOPMENTAL DISORDERS AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, INCLUDING AUTISM, ASPERGER'S DISORDER AND PERVASIVE DEVELOPMENTAL DISORDERS NOT OTHERWISE SPECIFIED.

(II) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS ONE OR MORE TESTS, EVALUATIONS OR ASSESSMENTS TO DIAGNOSE, WHETHER AN INDIVIDUAL HAS AUTISM

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

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SPECTRUM DISORDERS THAT ARE PRESCRIBED, PERFORMED OR ORDERED BY (I) A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE OR (II) A PSYCHOLOGIST LICENSED TO PRACTICE IN THIS STATE AND HAVING EXPERTISE IN DIAGNOSING AUTISM SPECTRUM DISORDERS.

(III) "MEDICALLY NECESSARY" MEANS ANY CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM WHICH WILL OR IS REASONABLY EXPECTED TO DO ANY OF THE FOLLOWING:

(I) PREVENT THE ONSET OF AN ILLNESS, CONDITION, INJURY, DISEASE OR DISABILITY;

(II) REDUCE OR AMELIORATE THE PHYSICAL, MENTAL OR DEVELOPMENTAL EFFECTS OF AN ILLNESS, CONDITION, INJURY, DISEASE OR DISABILITY; OR

(III) ASSIST TO ACHIEVE OR MAINTAIN MAXIMUM FUNCTIONAL ACTIVITY IN PERFORMING DAILY ACTIVITIES.

(IV) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE THE FOLLOWING CARE PRESCRIBED, PROVIDED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH AUTISM SPECTRUM DISORDERS:

(I) PSYCHIATRIC CARE, INCLUDING DIRECT, CONSULTATIVE OR DIAGNOSTIC SERVICES PROVIDED BY A LICENSED PHYSICIAN SPECIALIZING IN PSYCHIATRY;

(II) PSYCHOLOGICAL CARE, INCLUDING DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A LICENSED PSYCHOLOGIST;

(III) HABILITATIVE OR REHABILITATIVE CARE, INCLUDING PROFESSIONAL, COUNSELING AND GUIDANCE SERVICES AND TREATMENT PROGRAMS THAT ARE INTENDED TO DEVELOP, MAINTAIN AND RESTORE THE FUNCTIONING OF AN INDIVIDUAL;

(IV) THERAPEUTIC CARE, INCLUDING BEHAVIORAL, SPEECH, OCCUPATIONAL AND PHYSICAL THERAPIES THAT PROVIDE TREATMENT IN THE FOLLOWING AREAS:

1. SELF CARE AND FEEDING,
2. PRAGMATIC, RECEPTIVE AND EXPRESSIVE LANGUAGE,
3. COGNITIVE FUNCTIONING,
4. APPLIED BEHAVIOR ANALYSIS, INTERVENTION AND MODIFICATION,
5. MOTOR PLANNING, AND
6. SENSORY PROCESSING.

(C) UPON REQUEST OF THE COVERAGE PROVIDER, A PROVIDER OF TREATMENT FOR AUTISM SPECTRUM DISORDERS SHALL FURNISH MEDICAL RECORDS, CLINICAL NOTES OR OTHER NECESSARY DATA THAT SUBSTANTIATE THAT THE INITIAL AND CONTINUED MEDICAL TREATMENT IS MEDICALLY NECESSARY AND RESULTING IN IMPROVED CLINICAL STATUS. WHEN TREATMENT IS ANTICIPATED TO REQUIRE CONTINUED SERVICES TO ACHIEVE DEMONSTRABLE PROGRESS, THE COVERAGE PROVIDER MAY REQUEST A TREATMENT PLAN CONSISTING OF DIAGNOSIS, PROPOSED TREATMENT BY TYPE, FREQUENCY, ANTICIPATED DURATION OF TREATMENT, THE ANTICIPATED OUTCOMES STATED AS GOALS, AND THE FREQUENCY BY WHICH THE TREATMENT PLAN WILL BE UPDATED.

(D) COVERAGE PURSUANT TO THIS PARAGRAPH SHALL NOT EXCEED THIRTY-SIX THOUSAND DOLLARS PER YEAR, PROVIDED THAT SUCH COVERAGE SHALL IN NO MANNER LIMIT OR BE APPLIED AGAINST ANY OTHER COVERAGE LIMIT FOR ANY OTHER HEALTH CONDITION COVERED UNDER THE INSURANCE POLICY. ANNUALLY, ON OR BEFORE JANUARY FIRST, SUCH COVERAGE LIMIT SHALL BE ADJUSTED BY THE SUPERINTENDENT TO REFLECT INFLATION USING THE MEDICAL CARE COMPONENT OF THE UNITED STATES DEPARTMENT OF LABOR CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS. SUCH COVERAGE SHALL IN NO MANNER LIMIT THE NUMBER OF VISITS FOR THE TREATMENT AND DIAGNOSIS OF AUTISM SPECTRUM DISORDERS.

(E) THE DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS MAY BE SUBJECT TO REASONABLE DEDUCTIBLE, CO-PAYMENT AND CO-INSURANCE AMOUNTS TO THE EXTENT THAT OTHER MEDICAL SERVICES ARE SUBJECT TO SUCH PROVISIONS.

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) A group or blanket accident or health insurance policy or issuing a group or blanket policy for delivery in this state which provides coverage for hospital, surgical, or medical care coverage shall [not exclude] PROVIDE coverage for THE diagnosis and treatment of [medical conditions otherwise covered by the policy because the treatment is provided to diagnose or treat] autism spectrum [disorder] DISORDERS RENDERED TO COVERED PERSONS UNDER THE AGE OF TWENTY-ONE YEARS.

(B) For purposes of this [section, "autism] PARAGRAPH:

(I) "AUTISM spectrum [disorder" means a neurobiological condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] DISORDERS" MEANS PERVASIVE DEVELOPMENTAL DISORDERS AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, INCLUDING AUTISM, ASPERGER'S DISORDER AND PERVASIVE DEVELOPMENTAL DISORDERS NOT OTHERWISE SPECIFIED.

(II) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS ONE OR MORE TESTS, EVALUATIONS OR ASSESSMENTS TO DIAGNOSE, WHETHER AN INDIVIDUAL HAS AUTISM SPECTRUM DISORDERS THAT ARE PRESCRIBED, PERFORMED OR ORDERED BY (I) A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE OR (II) A PSYCHOLOGIST LICENSED TO PRACTICE IN THIS STATE AND HAVING EXPERTISE IN DIAGNOSING AUTISM SPECTRUM DISORDERS.

(III) "MEDICALLY NECESSARY" MEANS ANY CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM WHICH WILL OR IS REASONABLY EXPECTED TO DO ANY OF THE FOLLOWING:

(I) PREVENT THE ONSET OF AN ILLNESS, CONDITION, INJURY, DISEASE OR DISABILITY;

(II) REDUCE OR AMELIORATE THE PHYSICAL, MENTAL OR DEVELOPMENTAL EFFECTS OF AN ILLNESS, CONDITION, INJURY, DISEASE OR DISABILITY; OR

(III) ASSIST TO ACHIEVE OR MAINTAIN MAXIMUM FUNCTIONAL ACTIVITY IN PERFORMING DAILY ACTIVITIES.

(IV) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE THE FOLLOWING CARE PRESCRIBED, PROVIDED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH AUTISM SPECTRUM DISORDERS:

(I) PSYCHIATRIC CARE, INCLUDING DIRECT, CONSULTATIVE OR DIAGNOSTIC SERVICES PROVIDED BY A LICENSED PHYSICIAN SPECIALIZING IN PSYCHIATRY;

(II) PSYCHOLOGICAL CARE, INCLUDING DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A LICENSED PSYCHOLOGIST;

(III) HABILITATIVE OR REHABILITATIVE CARE, INCLUDING PROFESSIONAL, COUNSELING AND GUIDANCE SERVICES AND TREATMENT PROGRAMS THAT ARE INTENDED TO DEVELOP, MAINTAIN AND RESTORE THE FUNCTIONING OF AN INDIVIDUAL;

(IV) THERAPEUTIC CARE, INCLUDING BEHAVIORAL, SPEECH, OCCUPATIONAL AND PHYSICAL THERAPIES THAT PROVIDE TREATMENT IN THE FOLLOWING AREAS:

1. SELF CARE AND FEEDING,
2. PRAGMATIC, RECEPTIVE AND EXPRESSIVE LANGUAGE,
3. COGNITIVE FUNCTIONING,
4. APPLIED BEHAVIOR ANALYSIS, INTERVENTION AND MODIFICATION,
5. MOTOR PLANNING, AND
6. SENSORY PROCESSING.

(C) UPON REQUEST OF THE COVERAGE PROVIDER, A PROVIDER OF TREATMENT FOR AUTISM SPECTRUM DISORDERS SHALL FURNISH MEDICAL RECORDS, CLINICAL NOTES OR OTHER NECESSARY DATA THAT SUBSTANTIATE THAT THE INITIAL AND CONTINUED MEDICAL TREATMENT IS MEDICALLY NECESSARY AND RESULTING IN IMPROVED CLINICAL STATUS. WHEN TREATMENT IS ANTICIPATED TO REQUIRE CONTINUED SERVICES

TO ACHIEVE DEMONSTRABLE PROGRESS, THE COVERAGE PROVIDER MAY REQUEST A TREATMENT PLAN CONSISTING OF DIAGNOSIS, PROPOSED TREATMENT BY TYPE, FREQUENCY, ANTICIPATED DURATION OF TREATMENT, THE ANTICIPATED OUTCOMES STATED AS GOALS, AND THE FREQUENCY BY WHICH THE TREATMENT PLAN WILL BE UPDATED.

(D) COVERAGE PURSUANT TO THIS PARAGRAPH SHALL NOT EXCEED THIRTY-SIX THOUSAND DOLLARS PER YEAR, PROVIDED THAT SUCH COVERAGE SHALL IN NO MANNER LIMIT OR BE APPLIED AGAINST ANY OTHER COVERAGE LIMIT FOR ANY OTHER HEALTH CONDITION COVERED UNDER THE INSURANCE POLICY. ANNUALLY, ON OR BEFORE JANUARY FIRST, SUCH COVERAGE LIMIT SHALL BE ADJUSTED BY THE SUPERINTENDENT TO REFLECT INFLATION USING THE MEDICAL CARE COMPONENT OF THE UNITED STATES DEPARTMENT OF LABOR CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS. SUCH COVERAGE SHALL IN NO MANNER LIMIT THE NUMBER OF VISITS FOR THE TREATMENT AND DIAGNOSIS OF AUTISM SPECTRUM DISORDERS.

(E) THE DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS MAY BE SUBJECT TO REASONABLE DEDUCTIBLE, CO-PAYMENT AND CO-INSURANCE AMOUNTS TO THE EXTENT THAT OTHER MEDICAL SERVICES ARE SUBJECT TO SUCH PROVISIONS.

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) (1) 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] INCLUDE coverage for THE 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 RENDERED TO COVERED PERSONS UNDER THE AGE OF TWENTY-ONE YEARS.

(2) For purposes of this [section, "autism] SUBSECTION:

(A) "AUTISM spectrum [disorder" means a neurobiological condition that includes autism, Asperger syndrome, Rett's syndrome, or pervasive developmental disorder] DISORDERS" MEANS PERVASIVE DEVELOPMENTAL DISORDERS AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, INCLUDING AUTISM, ASPERGER'S DISORDER AND PERVASIVE DEVELOPMENTAL DISORDERS NOT OTHERWISE SPECIFIED.

(B) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS ONE OR MORE TESTS, EVALUATIONS OR ASSESSMENTS TO DIAGNOSE, WHETHER AN INDIVIDUAL HAS AUTISM SPECTRUM DISORDERS THAT ARE PRESCRIBED, PERFORMED OR ORDERED BY (I) A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE OR (II) A PSYCHOLOGIST LICENSED TO PRACTICE IN THIS STATE AND HAVING EXPERTISE IN DIAGNOSING AUTISM SPECTRUM DISORDERS.

(C) "MEDICALLY NECESSARY" MEANS ANY CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM WHICH WILL OR IS REASONABLY EXPECTED TO DO ANY OF THE FOLLOWING:

(I) PREVENT THE ONSET OF AN ILLNESS, CONDITION, INJURY, DISEASE OR DISABILITY;

(II) REDUCE OR AMELIORATE THE PHYSICAL, MENTAL OR DEVELOPMENTAL EFFECTS OF AN ILLNESS, CONDITION, INJURY, DISEASE OR DISABILITY; OR

(III) ASSIST TO ACHIEVE OR MAINTAIN MAXIMUM FUNCTIONAL ACTIVITY IN PERFORMING DAILY ACTIVITIES.

(D) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE THE FOLLOWING CARE PRESCRIBED, PROVIDED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH AUTISM SPECTRUM DISORDERS:

(I) PSYCHIATRIC CARE, INCLUDING DIRECT, CONSULTATIVE OR DIAGNOSTIC SERVICES PROVIDED BY A LICENSED PHYSICIAN SPECIALIZING IN PSYCHIATRY;

(II) PSYCHOLOGICAL CARE, INCLUDING DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A LICENSED PSYCHOLOGIST;

(III) HABILITATIVE OR REHABILITATIVE CARE, INCLUDING PROFESSIONAL, COUNSELING AND GUIDANCE SERVICES AND TREATMENT PROGRAMS THAT ARE INTENDED TO DEVELOP, MAINTAIN AND RESTORE THE FUNCTIONING OF AN INDIVIDUAL.

(IV) THERAPEUTIC CARE, INCLUDING BEHAVIORAL, SPEECH, OCCUPATIONAL AND PHYSICAL THERAPIES THAT PROVIDE TREATMENT IN THE FOLLOWING AREAS:

(I) SELF CARE AND FEEDING,

(II) PRAGMATIC, RECEPTIVE AND EXPRESSIVE LANGUAGE,

(III) COGNITIVE FUNCTIONING,

(IV) APPLIED BEHAVIOR ANALYSIS, INTERVENTION AND MODIFICATION,

(V) MOTOR PLANNING, AND

(VI) SENSORY PROCESSING.

(3) UPON REQUEST OF THE COVERAGE PROVIDER, A PROVIDER OF TREATMENT FOR AUTISM SPECTRUM DISORDERS SHALL FURNISH MEDICAL RECORDS, CLINICAL NOTES OR OTHER NECESSARY DATA THAT SUBSTANTIATE THAT THE INITIAL AND CONTINUED MEDICAL TREATMENT IS MEDICALLY NECESSARY AND RESULTING IN IMPROVED CLINICAL STATUS. WHEN TREATMENT IS ANTICIPATED TO REQUIRE CONTINUED SERVICES TO ACHIEVE DEMONSTRABLE PROGRESS, THE COVERAGE PROVIDER MAY REQUEST A TREATMENT PLAN CONSISTING OF DIAGNOSIS, PROPOSED TREATMENT BY TYPE, FREQUENCY, ANTICIPATED DURATION OF TREATMENT, THE ANTICIPATED OUTCOMES STATED AS GOALS, AND THE FREQUENCY BY WHICH THE TREATMENT PLAN WILL BE UPDATED.

(4) COVERAGE PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED THIRTY-SIX THOUSAND DOLLARS PER YEAR, PROVIDED THAT SUCH COVERAGE SHALL IN NO MANNER LIMIT OR BE APPLIED AGAINST ANY OTHER COVERAGE LIMIT FOR ANY OTHER HEALTH CONDITION COVERED UNDER THE INSURANCE POLICY. ANNUALLY, ON OR BEFORE JANUARY FIRST, SUCH COVERAGE LIMIT SHALL BE ADJUSTED BY THE SUPERINTENDENT TO REFLECT INFLATION USING THE MEDICAL CARE COMPONENT OF THE UNITED STATES DEPARTMENT OF LABOR CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS. SUCH COVERAGE SHALL IN NO MANNER LIMIT THE NUMBER OF VISITS FOR THE TREATMENT AND DIAGNOSIS OF AUTISM SPECTRUM DISORDERS.

(5) THE DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS MAY BE SUBJECT TO REASONABLE DEDUCTIBLE, CO-PAYMENT AND CO-INSURANCE AMOUNTS TO THE EXTENT THAT OTHER MEDICAL SERVICES ARE SUBJECT TO SUCH PROVISIONS.

S 4. 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.