

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

S. 4005--A

A. 6305--A

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, KENNEDY, KLEIN, KRUEGER, KRUGER, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, MONTGOMERY, NOZZOLIO, O'MARA, OPPENHEIMER, PARKER, PERALTA, PERKINS, RITCHIE, RIVERA, ROBACH, SAMPSON, SAVINO, SKELOS, STAVISKY, STEWART-COUSINS, VALESKY, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, P. RIVERA, BENEDETTO, PEOPLES-STOKES, PRETLOW, WRIGHT, MOYA, LINARES, MCENENY, COLTON, ROBERTS, GUNTHER, BRAUNSTEIN -- Multi-Sponsored by -- M. of A. BARCLAY, CALHOUN, DUPREY, ENGLEBRIGHT, JORDAN, LIFTON, McDONOUGH, McKEVITT, MENG, MILLMAN, MOLINARO, MONTESANO, PAULIN, RAIA, SALADINO, SAYWARD, SCHIMEL, TEDISCO, TOBACCO, WEINSTEIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance 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:

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:

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

LBD08567-03-1

1 (25) (A) Every policy which provides coverage for hospital[,] OR
2 surgical[, or medical care] coverage shall not exclude coverage for
3 SCREENING, diagnosis and treatment of medical conditions otherwise
4 covered by the policy solely because the treatment is provided to diag-
5 nose or treat autism spectrum disorder. [For purposes of this section,
6 "autism spectrum disorder" means a neurobiological condition that
7 includes autism, Asperger syndrome, Rett's syndrome, or pervasive devel-
8 opmental disorder.]

9 (B) EVERY POLICY WHICH PROVIDES PHYSICIAN SERVICES, MEDICAL, MAJOR
10 MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE COVERAGE
11 FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER
12 IN ACCORDANCE WITH THIS PARAGRAPH AND SHALL NOT EXCLUDE COVERAGE FOR THE
13 SCREENING, DIAGNOSIS OR TREATMENT OF MEDICAL CONDITIONS OTHERWISE
14 COVERED BY THE POLICY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AUTISM
15 SPECTRUM DISORDER. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES,
16 COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPER-
17 INTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS
18 UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE
19 BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY,
20 PROVIDED HOWEVER THAT SUCH POLICY SHALL NOT CONTAIN ANY LIMITATIONS ON
21 VISITS THAT ARE SOLELY APPLIED TO THE TREATMENT OF AUTISM SPECTRUM
22 DISORDER. NO INSURER SHALL TERMINATE COVERAGE OR REFUSE TO DELIVER,
23 EXECUTE, ISSUE, AMEND, ADJUST, OR RENEW COVERAGE TO AN INDIVIDUAL SOLELY
24 BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AUTISM SPECTRUM DISORDER OR HAS
25 RECEIVED TREATMENT FOR AUTISM SPECTRUM DISORDER. COVERAGE SHALL BE
26 SUBJECT TO UTILIZATION REVIEW AND EXTERNAL APPEALS OF HEALTH CARE
27 SERVICES PURSUANT TO ARTICLE FORTY-NINE OF THIS CHAPTER AS WELL AS, CASE
28 MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

29 (C) FOR PURPOSES OF THIS PARAGRAPH:

30 (I) "AUTISM SPECTRUM DISORDER" MEANS ANY PERVASIVE DEVELOPMENTAL
31 DISORDER AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND
32 STATISTICAL MANUAL OF MENTAL DISORDERS, INCLUDING AUTISTIC DISORDER,
33 ASPERGER'S DISORDER, RETT'S DISORDER, CHILDHOOD DISINTEGRATIVE DISORDER,
34 OR PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (PDD-NOS).

35 (II) "APPLIED BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION, AND
36 EVALUATION OF ENVIRONMENTAL MODIFICATIONS, USING BEHAVIORAL STIMULI AND
37 CONSEQUENCES, TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT IN HUMAN
38 BEHAVIOR, INCLUDING THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND
39 FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAV-
40 IOR.

41 (III) "BEHAVIORAL HEALTH TREATMENT" MEANS COUNSELING AND TREATMENT
42 PROGRAMS, WHEN PROVIDED BY A LICENSED PROVIDER, AND APPLIED BEHAVIOR
43 ANALYSIS, WHEN PROVIDED OR SUPERVISED BY A BEHAVIOR ANALYST CERTIFIED
44 PURSUANT TO THE BEHAVIOR ANALYST CERTIFICATION BOARD, THAT ARE NECESSARY
45 TO DEVELOP, MAINTAIN, OR RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE
46 FUNCTIONING OF AN INDIVIDUAL. INDIVIDUALS THAT PROVIDE BEHAVIORAL HEALTH
47 TREATMENT UNDER THE SUPERVISION OF A CERTIFIED BEHAVIOR ANALYST PURSUANT
48 TO THIS PARAGRAPH SHALL BE SUBJECT TO STANDARDS OF PROFESSIONALISM AND
49 RELEVANT EXPERIENCE PURSUANT TO REGULATIONS PROMULGATED BY THE SUPER-
50 INTENDENT IN CONSULTATION WITH THE COMMISSIONER OF HEALTH.

51 (IV) "DIAGNOSIS OF AUTISM SPECTRUM DISORDER" MEANS ASSESSMENTS, EVALU-
52 ATIONS, OR TESTS TO DIAGNOSE WHETHER AN INDIVIDUAL HAS AUTISM SPECTRUM
53 DISORDER.

54 (V) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A LICENSED HEALTH
55 CARE PROVIDER LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE
56 EDUCATION LAW.

(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 OF AUTISM SPECTRUM DISORDER" SHALL INCLUDE THE FOLLOWING CARE AND RELATED EQUIPMENT PRESCRIBED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH AUTISM SPECTRUM DISORDER BY A LICENSED PHYSICIAN OR A LICENSED PSYCHOLOGIST:

(1) BEHAVIORAL HEALTH TREATMENT;

(2) PSYCHIATRIC CARE;

(3) PSYCHOLOGICAL CARE;

(4) MEDICAL CARE PROVIDED BY A LICENSED HEALTH CARE PROVIDER;

(5) THERAPEUTIC CARE, INCLUDING THERAPEUTIC CARE WHICH IS DEEMED HABITATIVE OR NONRESTORATIVE, IN THE EVENT THAT THE POLICY PROVIDES COVERAGE FOR THERAPEUTIC CARE; AND

(6) PHARMACY CARE IN THE EVENT THAT THE POLICY PROVIDES COVERAGE FOR PRESCRIPTION DRUGS.

(D) COVERAGE MAY BE DENIED ON THE BASIS THAT SUCH TREATMENT IS 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.

(E) 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.

(F) 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.

(G) 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] (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[,] OR surgi-

1 cal[, or medical] care coverage shall not exclude coverage for SCREEN-
2 ING, diagnosis and treatment of medical conditions otherwise covered by
3 the policy because the treatment is provided to diagnose or treat autism
4 spectrum disorder. [For purposes of this section, "autism spectrum
5 disorder" means a neurobiological condition that includes autism, Asper-
6 ger syndrome, Rett's syndrome, or pervasive developmental disorder.]

7 (B) EVERY GROUP OR BLANKET POLICY WHICH PROVIDES PHYSICIAN SERVICES,
8 MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL
9 PROVIDE COVERAGE FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM
10 SPECTRUM DISORDER IN ACCORDANCE WITH THIS PARAGRAPH AND SHALL NOT
11 EXCLUDE COVERAGE FOR THE SCREENING, DIAGNOSIS OR TREATMENT OF MEDICAL
12 CONDITIONS OTHERWISE COVERED BY THE POLICY BECAUSE THE INDIVIDUAL IS
13 DIAGNOSED WITH AUTISM SPECTRUM DISORDER. SUCH COVERAGE MAY BE SUBJECT TO
14 ANNUAL DEDUCTIBLES, COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPRO-
15 PRIATE BY THE SUPERINTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED
16 ON OTHER BENEFITS UNDER THE GROUP OR BLANKET POLICY. THIS PARAGRAPH
17 SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT ARE OTHERWISE
18 AVAILABLE TO AN INDIVIDUAL UNDER THE GROUP OR BLANKET POLICY, PROVIDED
19 HOWEVER THAT SUCH POLICY SHALL NOT CONTAIN ANY LIMITATIONS ON VISITS
20 THAT ARE SOLELY APPLIED TO THE TREATMENT OF AUTISM SPECTRUM DISORDER. NO
21 INSURER SHALL TERMINATE COVERAGE OR REFUSE TO DELIVER, EXECUTE, ISSUE,
22 AMEND, ADJUST, OR RENEW COVERAGE TO AN INDIVIDUAL SOLELY BECAUSE THE
23 INDIVIDUAL IS DIAGNOSED WITH AUTISM SPECTRUM DISORDER OR HAS RECEIVED
24 TREATMENT FOR AUTISM SPECTRUM DISORDER. COVERAGE SHALL BE SUBJECT TO
25 UTILIZATION REVIEW AND EXTERNAL APPEALS OF HEALTH CARE SERVICES PURSUANT
26 TO ARTICLE FORTY-NINE OF THIS CHAPTER AS WELL AS, CASE MANAGEMENT, AND
27 OTHER MANAGED CARE PROVISIONS.

28 (C) FOR PURPOSES OF THIS PARAGRAPH:

29 (I) "AUTISM SPECTRUM DISORDER" MEANS ANY PERVASIVE DEVELOPMENTAL
30 DISORDER AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND
31 STATISTICAL MANUAL OF MENTAL DISORDERS, INCLUDING AUTISTIC DISORDER,
32 ASPERGER'S DISORDER, RETT'S DISORDER, CHILDHOOD DISINTEGRATIVE DISORDER,
33 OR PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (PDD-NOS).

34 (II) "APPLIED BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION, AND
35 EVALUATION OF ENVIRONMENTAL MODIFICATIONS, USING BEHAVIORAL STIMULI AND
36 CONSEQUENCES, TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT IN HUMAN
37 BEHAVIOR, INCLUDING THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND
38 FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAV-
39 IOR.

40 (III) "BEHAVIORAL HEALTH TREATMENT" MEANS COUNSELING AND TREATMENT
41 PROGRAMS, WHEN PROVIDED BY A LICENSED PROVIDER, AND APPLIED BEHAVIOR
42 ANALYSIS, WHEN PROVIDED OR SUPERVISED BY A BEHAVIOR ANALYST CERTIFIED
43 PURSUANT TO THE BEHAVIOR ANALYST CERTIFICATION BOARD, THAT ARE NECESSARY
44 TO DEVELOP, MAINTAIN, OR RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE
45 FUNCTIONING OF AN INDIVIDUAL. INDIVIDUALS THAT PROVIDE BEHAVIORAL HEALTH
46 TREATMENT UNDER THE SUPERVISION OF A CERTIFIED BEHAVIOR ANALYST PURSUANT
47 TO THIS PARAGRAPH SHALL BE SUBJECT TO STANDARDS OF PROFESSIONALISM AND
48 RELEVANT EXPERIENCE PURSUANT TO REGULATIONS PROMULGATED BY THE SUPER-
49 INTENDENT IN CONSULTATION WITH THE COMMISSIONER OF HEALTH.

50 (IV) "DIAGNOSIS OF AUTISM SPECTRUM DISORDER" MEANS ASSESSMENTS, EVALU-
51 ATIONS, OR TESTS TO DIAGNOSE WHETHER AN INDIVIDUAL HAS AUTISM SPECTRUM
52 DISORDER.

53 (V) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A LICENSED HEALTH
54 CARE PROVIDER LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE
55 EDUCATION LAW.

(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 OF AUTISM SPECTRUM DISORDER" SHALL INCLUDE THE FOLLOWING CARE AND RELATED EQUIPMENT PRESCRIBED OR ORDERED FOR AN INDIVIDUAL DIAGNOSED WITH AUTISM SPECTRUM DISORDER BY A LICENSED PHYSICIAN OR A LICENSED PSYCHOLOGIST:

(1) BEHAVIORAL HEALTH TREATMENT;

(2) PSYCHIATRIC CARE;

(3) PSYCHOLOGICAL CARE;

(4) MEDICAL CARE PROVIDED BY A LICENSED HEALTH CARE PROVIDER;

(5) THERAPEUTIC CARE, INCLUDING THERAPEUTIC CARE WHICH IS DEEMED HABILITATIVE OR NONRESTORATIVE, IN THE EVENT THAT THE POLICY PROVIDES COVERAGE FOR THERAPEUTIC CARE; AND

(6) PHARMACY CARE IN THE EVENT THAT THE POLICY PROVIDES COVERAGE FOR PRESCRIPTION DRUGS.

(D) COVERAGE MAY BE DENIED ON THE BASIS THAT SUCH TREATMENT IS 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.

(E) 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.

(F) 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.

(G) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A GROUP OR BLANKET 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) (1) A medical expense indemnity corporation, a hospital service corporation or a health service corporation which provides coverage for hospital[,] OR surgical[, or medical] care coverage shall not exclude coverage for SCREENING, diagnosis and treatment of medical conditions

1 otherwise covered by the policy solely because the treatment is provided
2 to diagnose or treat autism spectrum disorder. [For purposes of this
3 section, "autism spectrum disorder" means a neurobiological condition
4 that includes autism, Asperger syndrome, Rett's syndrome, or pervasive
5 developmental disorder.]

6 (2) EVERY POLICY WHICH PROVIDES PHYSICIAN SERVICES, MEDICAL, MAJOR
7 MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE COVERAGE
8 FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER
9 IN ACCORDANCE WITH THIS SUBSECTION AND SHALL NOT EXCLUDE COVERAGE FOR
10 THE SCREENING, DIAGNOSIS OR TREATMENT OF MEDICAL CONDITIONS OTHERWISE
11 COVERED BY THE POLICY BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AUTISM
12 SPECTRUM DISORDER. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES,
13 COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPER-
14 INTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS
15 UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE
16 BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY,
17 PROVIDED HOWEVER THAT SUCH POLICY SHALL NOT CONTAIN ANY LIMITATIONS ON
18 VISITS THAT ARE SOLELY APPLIED TO THE TREATMENT OF AUTISM SPECTRUM
19 DISORDER. NO INSURER SHALL TERMINATE COVERAGE OR REFUSE TO DELIVER,
20 EXECUTE, ISSUE, AMEND, ADJUST, OR RENEW COVERAGE TO AN INDIVIDUAL SOLELY
21 BECAUSE THE INDIVIDUAL IS DIAGNOSED WITH AUTISM SPECTRUM DISORDER OR HAS
22 RECEIVED TREATMENT FOR AUTISM SPECTRUM DISORDER. COVERAGE SHALL BE
23 SUBJECT TO UTILIZATION REVIEW AND EXTERNAL APPEALS OF HEALTH CARE
24 SERVICES PURSUANT TO ARTICLE FORTY-NINE OF THIS CHAPTER AS WELL AS, CASE
25 MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.

26 (3) FOR PURPOSES OF THIS SUBSECTION:

27 (A) "AUTISM SPECTRUM DISORDER" MEANS ANY PERVASIVE DEVELOPMENTAL
28 DISORDER AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND
29 STATISTICAL MANUAL OF MENTAL DISORDERS, INCLUDING AUTISTIC DISORDER,
30 ASPERGER'S DISORDER, RETT'S DISORDER, CHILDHOOD DISINTEGRATIVE DISORDER,
31 OR PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (PDD-NOS).

32 (B) "APPLIED BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION, AND
33 EVALUATION OF ENVIRONMENTAL MODIFICATIONS, USING BEHAVIORAL STIMULI AND
34 CONSEQUENCES, TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT IN HUMAN
35 BEHAVIOR, INCLUDING THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND
36 FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAV-
37 IOR.

38 (C) "BEHAVIORAL HEALTH TREATMENT" MEANS COUNSELING AND TREATMENT
39 PROGRAMS, WHEN PROVIDED BY A LICENSED PROVIDER, AND APPLIED BEHAVIOR
40 ANALYSIS, WHEN PROVIDED OR SUPERVISED BY A BEHAVIOR ANALYST CERTIFIED
41 PURSUANT TO THE BEHAVIOR ANALYST CERTIFICATION BOARD, THAT ARE NECESSARY
42 TO DEVELOP, MAINTAIN, OR RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE
43 FUNCTIONING OF AN INDIVIDUAL. INDIVIDUALS THAT PROVIDE BEHAVIORAL HEALTH
44 TREATMENT UNDER THE SUPERVISION OF A CERTIFIED BEHAVIOR ANALYST PURSUANT
45 TO THIS SUBSECTION SHALL BE SUBJECT TO STANDARDS OF PROFESSIONALISM AND
46 RELEVANT EXPERIENCE PURSUANT TO REGULATIONS PROMULGATED BY THE SUPER-
47 INTENDENT IN CONSULTATION WITH THE COMMISSIONER OF HEALTH.

48 (D) "DIAGNOSIS OF AUTISM SPECTRUM DISORDER" MEANS ASSESSMENTS, EVALU-
49 ATIONS, OR TESTS TO DIAGNOSE WHETHER AN INDIVIDUAL HAS AUTISM SPECTRUM
50 DISORDER.

51 (E) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A LICENSED HEALTH
52 CARE PROVIDER LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE
53 EDUCATION LAW.

54 (F) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED
55 BY A PSYCHIATRIST LICENSED IN THE STATE IN WHICH THE PSYCHIATRIST PRAC-
56 TICES.

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

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

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

(I) BEHAVIORAL HEALTH TREATMENT;

(II) PSYCHIATRIC CARE;

(III) PSYCHOLOGICAL CARE;

(IV) MEDICAL CARE PROVIDED BY A LICENSED HEALTH CARE PROVIDER;

(V) THERAPEUTIC CARE, INCLUDING THERAPEUTIC CARE WHICH IS DEEMED HABITATIVE OR NONRESTORATIVE, IN THE EVENT THAT THE POLICY PROVIDES COVERAGE FOR THERAPEUTIC CARE; AND

(VI) PHARMACY CARE IN THE EVENT THAT THE POLICY PROVIDES COVERAGE FOR PRESCRIPTION DRUGS.

(4) COVERAGE MAY BE DENIED ON THE BASIS THAT SUCH TREATMENT IS 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.

(5) 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.

(6) 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 ARTICLE OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

(7) 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.

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 judgement 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.

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