

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 155

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING COVERAGE FOR DIAGNOSIS
AND TREATMENT OF AUTISM SPECTRUM DISORDER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Health Care Purchasing
Act is enacted to read:

"[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER
DIAGNOSIS AND TREATMENT.--

A. Beginning with the open enrollment period for
the 2010 plan year group health care coverage, including any
form of self-insurance, offered, issued or renewed under the
Health Care Purchasing Act shall provide coverage to employees
and their covered dependents who are nineteen years of age or
younger, or who are twenty-two years of age or younger and are
enrolled in high school, for:

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1 (1) well-baby and well-child screening,
2 including a thirty-month well-child examination and autism
3 screening tools designed to diagnose the presence of autism
4 spectrum disorder; and

5 (2) treatment of autism spectrum disorder
6 through medically necessary speech therapy, occupational
7 therapy, physical therapy and applied behavioral analysis.

8 B. Coverage required pursuant to Subsection A of
9 this section:

10 (1) shall be limited to treatment that is
11 prescribed by the insured's treating physician in accordance
12 with a treatment plan;

13 (2) shall be limited to thirty-six thousand
14 dollars (\$36,000) annually and shall not exceed two hundred
15 thousand dollars (\$200,000) in total lifetime benefits.

16 Beginning January 1, 2011, the maximum benefit shall be
17 adjusted annually on January 1 to reflect any change from the
18 previous year in the medical component of the then-current
19 consumer price index for all urban consumers published by the
20 bureau of labor statistics of the United States department of
21 labor;

22 (3) shall not be denied on the basis that the
23 services are habilitative or rehabilitative in nature;

24 (4) may be subject to other general exclusions
25 and limitations of the group health care coverage, including

1 coordination of benefits, participating provider requirements,
 2 restrictions on services provided by family or household
 3 members and utilization review of health care services,
 4 including the review of medical necessity, case management and
 5 other managed care provisions; and

6 (5) may be limited to exclude coverage for
 7 services received under the federal Individuals with
 8 Disabilities Education Improvement Act of 2004 and related
 9 state laws that place responsibility on state and local school
 10 boards for providing specialized education and related services
 11 to children three to twenty-two years of age who have autism
 12 spectrum disorder.

13 C. The coverage required pursuant to Subsection A
 14 of this section shall not be subject to dollar limits,
 15 deductibles or coinsurance provisions that are less favorable
 16 to an insured than the dollar limits, deductibles or
 17 coinsurance provisions that apply to physical illnesses that
 18 are generally covered under the group health care coverage
 19 plan, except as otherwise provided in Subsection B of this
 20 section.

21 D. An insurer shall not deny or refuse to issue
 22 health insurance coverage for medically necessary services or
 23 refuse to contract with, renew, reissue or otherwise terminate
 24 or restrict health insurance coverage for an individual because
 25 the individual is diagnosed as having or receiving treatment

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1 for an autism spectrum disorder.

2 E. The treatment plan required pursuant to
3 Subsection B of this section shall include all elements
4 necessary for the group health care coverage plan to pay claims
5 appropriately. These elements include:

- 6 (1) the diagnosis;
- 7 (2) the proposed treatment by types;
- 8 (3) the frequency and duration of treatment;
- 9 (4) the anticipated outcomes stated as goals;
- 10 (5) the frequency with which the treatment
11 plan will be updated; and
- 12 (6) the signature of the treating physician.

13 F. This section shall not be construed as limiting
14 benefits and coverage otherwise available to an insured under a
15 group health care coverage plan.

16 G. The provisions of this section shall not apply
17 to individual policies intended to supplement major medical
18 group-type coverages such as medicare supplement, long-term
19 care, disability income, specified disease, accident-only,
20 hospital indemnity or other limited-benefit health insurance
21 policies.

22 H. As used in this section:

- 23 (1) "autism spectrum disorder" means a
24 condition that meets the diagnostic criteria for the pervasive
25 developmental disorders published in the Diagnostic and

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1 Statistical Manual of Mental Disorders, fourth edition, text
 2 revision, also known as DSM-IV-TR, published by the American
 3 psychiatric association, including autistic disorder;
 4 Asperger's disorder; pervasive developmental disorder not
 5 otherwise specified; Rett's disorder; and childhood
 6 disintegrative disorder;

7 (2) "high school" means a school providing
 8 instruction for any of the grades nine through twelve; and

9 (3) "services that are habilitative or
 10 rehabilitative" means treatment programs that are necessary to
 11 develop, maintain and restore to the maximum extent practicable
 12 the functioning of the individual."

13 Section 2. A new section of Chapter 59A, Article 22 NMSA
 14 1978 is enacted to read:

15 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER
 16 DIAGNOSIS AND TREATMENT.--

17 A. An individual or group health insurance policy,
 18 health care plan or certificate of health insurance that is
 19 delivered, issued for delivery or renewed in this state on or
 20 after September 17, 2009 shall provide coverage to an eligible
 21 individual who is nineteen years of age or younger, or an
 22 eligible individual who is twenty-two years of age or younger
 23 and is enrolled in high school, for:

24 (1) well-baby and well-child screening,
 25 including a thirty-month well-child examination and autism

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1 screening tools designed to diagnose the presence of autism
2 spectrum disorder; and

3 (2) treatment of autism spectrum disorder
4 through medically necessary speech therapy, occupational
5 therapy, physical therapy and applied behavioral analysis.

6 B. Coverage required pursuant to Subsection A of
7 this section:

8 (1) shall be limited to treatment that is
9 prescribed by the insured's treating physician in accordance
10 with a treatment plan;

11 (2) shall be limited to thirty-six thousand
12 dollars (\$36,000) annually and shall not exceed two hundred
13 thousand dollars (\$200,000) in total lifetime benefits.

14 Beginning January 1, 2011, the maximum benefit shall be
15 adjusted annually on January 1 to reflect any change from the
16 previous year in the medical component of the then-current
17 consumer price index for all urban consumers published by the
18 bureau of labor statistics of the United States department of
19 labor;

20 (3) shall not be denied on the basis that the
21 services are habilitative or rehabilitative in nature;

22 (4) may be subject to other general exclusions
23 and limitations of the insurer's policy or plan, including
24 coordination of benefits, participating provider requirements,
25 restrictions on services provided by family or household

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1 members and utilization review of health care services,
 2 including the review of medical necessity, case management and
 3 other managed care provisions; and

4 (5) may be limited to exclude coverage for
 5 services received under the federal Individuals with
 6 Disabilities Education Improvement Act of 2004 and related
 7 state laws that place responsibility on state and local school
 8 boards for providing specialized education and related services
 9 to children three to twenty-two years of age who have autism
 10 spectrum disorder.

11 C. The coverage required pursuant to Subsection A
 12 of this section shall not be subject to dollar limits,
 13 deductibles or coinsurance provisions that are less favorable
 14 to an insured than the dollar limits, deductibles or
 15 coinsurance provisions that apply to physical illnesses that
 16 are generally covered under the individual or group health
 17 insurance policy, health care plan or certificate of health
 18 insurance, except as otherwise provided in Subsection B of this
 19 section.

20 D. An insurer shall not deny or refuse to issue
 21 health insurance coverage for medically necessary services or
 22 refuse to contract with, renew, reissue or otherwise terminate
 23 or restrict health insurance coverage for an individual because
 24 the individual is diagnosed as having or receiving treatment
 25 for an autism spectrum disorder.

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1 E. The treatment plan required pursuant to
2 Subsection B of this section shall include all elements
3 necessary for the health insurance plan to pay claims
4 appropriately. These elements include:

- 5 (1) the diagnosis;
- 6 (2) the proposed treatment by types;
- 7 (3) the frequency and duration of treatment;
- 8 (4) the anticipated outcomes stated as goals;
- 9 (5) the frequency with which the treatment
10 plan will be updated; and
- 11 (6) the signature of the treating physician.

12 F. This section shall not be construed as limiting
13 benefits and coverage otherwise available to an insured under a
14 health insurance plan.

15 G. The provisions of this section shall not apply
16 to individual policies intended to supplement major medical
17 group-type coverages such as medicare supplement, long-term
18 care, disability income, specified disease, accident-only,
19 hospital indemnity or other limited-benefit health insurance
20 policies.

21 H. As used in this section:

- 22 (1) "autism spectrum disorder" means a
23 condition that meets the diagnostic criteria for the pervasive
24 developmental disorders published in the Diagnostic and
25 Statistical Manual of Mental Disorders, fourth edition, text

1 revision, also known as DSM-IV-TR, published by the American
2 psychiatric association, including autistic disorder;
3 Asperger's disorder; pervasive developmental disorder not
4 otherwise specified; Rett's disorder; and childhood
5 disintegrative disorder;

6 (2) "high school" means a school providing
7 instruction for any of the grades nine through twelve; and

8 (3) "services that are habilitative or
9 rehabilitative" means treatment programs that are necessary to
10 develop, maintain and restore to the maximum extent practicable
11 the functioning of the individual."

12 Section 3. A new section of Chapter 59A, Article 23 NMSA
13 1978 is enacted to read:

14 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER
15 DIAGNOSIS AND TREATMENT.--

16 A. A blanket or group health insurance policy or
17 contract that is delivered, issued for delivery or renewed in
18 this state on or after September 17, 2009 shall provide
19 coverage to an eligible individual who is nineteen years of age
20 or younger, or an eligible individual who is twenty-two years
21 of age or younger and is enrolled in high school, for:

22 (1) well-baby and well-child screening,
23 including a thirty-month well-child examination and autism
24 screening tools designed to diagnose the presence of autism
25 spectrum disorder; and

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1 (2) treatment of autism spectrum disorder
2 through medically necessary speech therapy, occupational
3 therapy, physical therapy and applied behavioral analysis.

4 B. Coverage required pursuant to Subsection A of
5 this section:

6 (1) shall be limited to treatment that is
7 prescribed by the insured's treating physician in accordance
8 with a treatment plan;

9 (2) shall be limited to thirty-six thousand
10 dollars (\$36,000) annually and shall not exceed two hundred
11 thousand dollars (\$200,000) in total lifetime benefits.

12 Beginning January 1, 2011, the maximum benefit shall be
13 adjusted annually on January 1 to reflect any change from the
14 previous year in the medical component of the then-current
15 consumer price index for all urban consumers published by the
16 bureau of labor statistics of the United States department of
17 labor;

18 (3) shall not be denied on the basis that the
19 services are habilitative or rehabilitative in nature;

20 (4) may be subject to other general exclusions
21 and limitations of the insurer's policy or plan, including
22 coordination of benefits, participating provider requirements,
23 restrictions on services provided by family or household
24 members and utilization review of health care services,
25 including the review of medical necessity, case management and

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1 other managed care provisions; and

2 (5) may be limited to exclude coverage for
3 services received under the federal Individuals with
4 Disabilities Education Improvement Act of 2004 and related
5 state laws that place responsibility on state and local school
6 boards for providing specialized education and related services
7 to children three to twenty-two years of age who have autism
8 spectrum disorder.

9 C. The coverage required pursuant to Subsection A
10 of this section shall not be subject to dollar limits,
11 deductibles or coinsurance provisions that are less favorable
12 to an insured than the dollar limits, deductibles or
13 coinsurance provisions that apply to physical illnesses that
14 are generally covered under the blanket or group health
15 insurance policy or contract, except as otherwise provided in
16 Subsection B of this section.

17 D. An insurer shall not deny or refuse to issue
18 health insurance coverage for medically necessary services or
19 refuse to contract with, renew, reissue or otherwise terminate
20 or restrict health insurance coverage for an individual because
21 the individual is diagnosed as having or receiving treatment
22 for an autism spectrum disorder.

23 E. The treatment plan required pursuant to
24 Subsection B of this section shall include all elements
25 necessary for the health insurance plan to pay claims

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1 appropriately. These elements include:

- 2 (1) the diagnosis;
- 3 (2) the proposed treatment by types;
- 4 (3) the frequency and duration of treatment;
- 5 (4) the anticipated outcomes stated as goals;
- 6 (5) the frequency with which the treatment
- 7 plan will be updated; and
- 8 (6) the signature of the treating physician.

9 F. This section shall not be construed as limiting
10 benefits and coverage otherwise available to an insured under a
11 health insurance plan.

12 G. The provisions of this section shall not apply
13 to individual policies intended to supplement major medical
14 group-type coverages such as medicare supplement, long-term
15 care, disability income, specified disease, accident-only,
16 hospital indemnity or other limited benefit health insurance
17 policies.

18 H. As used in this section:

- 19 (1) "autism spectrum disorder" means a
20 condition that meets the diagnostic criteria for the pervasive
21 developmental disorders published in the Diagnostic and
22 Statistical Manual of Mental disorders, fourth edition, text
23 revision, also known as DSM-IV-TR, published by the American
24 psychiatric association; Asperger's disorder; pervasive
25 developmental disorder not otherwise specified, including

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1 atypical autism; Rett's disorder; and childhood disintegrative
2 disorder;

3 (2) "high school" means a school providing
4 instruction for any of the grades nine through twelve; and

5 (3) "services that are habilitative or
6 rehabilitative" means treatment programs that are necessary to
7 develop, maintain and restore to the maximum extent practicable
8 the functioning of the individual."

9 Section 4. A new section of the Health Maintenance
10 Organization Law is enacted to read:

11 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER
12 DIAGNOSIS AND TREATMENT.--

13 A. An individual or group health maintenance
14 contract that is delivered, issued for delivery or renewed in
15 this state on or after September 17, 2009 shall provide
16 coverage to an eligible individual who is nineteen years of age
17 or younger, or an eligible individual who is twenty-two years
18 of age or younger and is enrolled in high school, for:

19 (1) well-baby and well-child screening,
20 including a thirty-month well-child examination and autism
21 screening tools designed to diagnose the presence of autism
22 spectrum disorder; and

23 (2) treatment of autism spectrum disorder
24 through medically necessary speech therapy, occupational
25 therapy, physical therapy and applied behavioral analysis.

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1 B. Coverage required pursuant to Subsection A of
2 this section:

3 (1) shall be limited to treatment that is
4 prescribed by the insured's treating physician in accordance
5 with a treatment plan;

6 (2) shall be limited to thirty-six thousand
7 dollars (\$36,000) annually and shall not exceed two hundred
8 thousand dollars (\$200,000) in total lifetime benefits.

9 Beginning January 1, 2011, the maximum benefit shall be
10 adjusted annually on January 1 to reflect any change from the
11 previous year in the medical component of the then-current
12 consumer price index for all urban consumers published by the
13 bureau of labor statistics of the United States department of
14 labor;

15 (3) shall not be denied on the basis that the
16 services are habilitative or rehabilitative in nature;

17 (4) may be subject to other general exclusions
18 and limitations of the insurer's policy or plan, including
19 coordination of benefits, participating provider requirements,
20 restrictions on services provided by family or household
21 members and utilization review of health care services,
22 including the review of medical necessity, case management and
23 other managed care provisions; and

24 (5) may be limited to exclude coverage for
25 services received under the federal Individuals with

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1 Disabilities Education Improvement Act of 2004 and related
2 state laws that place responsibility on state and local school
3 boards for providing specialized education and related services
4 to children three to twenty-two years of age who have autism
5 spectrum disorder.

6 C. The coverage required pursuant to Subsection A
7 of this section shall not be subject to dollar limits,
8 deductibles or coinsurance provisions that are less favorable
9 to an insured than the dollar limits, deductibles or
10 coinsurance provisions that apply to physical illnesses that
11 are generally covered under the individual or group health
12 maintenance contract, except as otherwise provided in
13 Subsection B of this section.

14 D. An insurer shall not deny or refuse to issue
15 health insurance coverage for medically necessary services or
16 refuse to contract with, renew, reissue or otherwise terminate
17 or restrict health insurance coverage for an individual because
18 the individual is diagnosed as having or receiving treatment
19 for an autism spectrum disorder.

20 E. The treatment plan required pursuant to
21 Subsection B of this section shall include all elements
22 necessary for the health insurance plan to pay claims
23 appropriately. These elements include:

- 24 (1) the diagnosis;
25 (2) the proposed treatment by types;

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- 1 (3) the frequency and duration of treatment;
- 2 (4) the anticipated outcomes stated as goals;
- 3 (5) the frequency with which the treatment
- 4 plan will be updated; and
- 5 (6) the signature of the treating physician.

6 F. This section shall not be construed as limiting
7 benefits and coverage otherwise available to an insured under a
8 health insurance plan.

9 G. The provisions of this section shall not apply
10 to individual policies intended to supplement major medical
11 group-type coverages such as medicare supplement, long-term
12 care, disability income, specified disease, accident-only,
13 hospital indemnity or other limited-benefit health insurance
14 policies.

15 H. As used in this section:

16 (1) "autism spectrum disorder" means a
17 condition that meets the diagnostic criteria for the pervasive
18 developmental disorders published in the Diagnostic and
19 Statistical Manual of Mental Disorders, fourth edition, text
20 revision, also known as DSM-IV-TR, published by the American
21 psychiatric association; Asperger's disorder; pervasive
22 developmental disorder not otherwise specified, including
23 atypical autism; Rett's disorder; and childhood disintegrative
24 disorder;

25 (2) "high school" means a school providing

1 instruction for any of the grades nine through twelve; and

2 (3) "services that are habilitative or
3 rehabilitative" means treatment programs that are necessary to
4 develop, maintain and restore to the maximum extent practicable
5 the functioning of the individual."

6 Section 5. A new section of the Nonprofit Health Care
7 Plan Law is enacted to read:

8 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER
9 DIAGNOSIS AND TREATMENT.--

10 A. Beginning with the open enrollment period for
11 the 2010 plan year group health care coverage, an individual or
12 group health insurance policy, health care plan or certificate
13 of health insurance delivered or issued for delivery in this
14 state shall provide coverage to an eligible individual who is
15 nineteen years of age or younger, or an eligible individual who
16 is twenty-two years of age or younger and is enrolled in high
17 school, for:

18 (1) well-baby and well-child screening,
19 including a thirty-month well-child examination and autism
20 screening tools designed to diagnose the presence of autism
21 spectrum disorder; and

22 (2) treatment of autism spectrum disorder
23 through medically necessary speech therapy, occupational
24 therapy, physical therapy and applied behavioral analysis.

25 B. Coverage required pursuant to Subsection A of
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underscored material = new
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1 this section:

2 (1) shall be limited to treatment that is
3 prescribed by the insured's treating physician in accordance
4 with a treatment plan;

5 (2) shall be limited to thirty-six thousand
6 dollars (\$36,000) annually and shall not exceed two hundred
7 thousand dollars (\$200,000) in total lifetime benefits.

8 Beginning January 1, 2011, the maximum benefit shall be
9 adjusted annually on January 1 to reflect any change from the
10 previous year in the medical component of the then-current
11 consumer price index for all urban consumers published by the
12 bureau of labor statistics of the United States department of
13 labor;

14 (3) shall not be denied on the basis that the
15 services are habilitative or rehabilitative in nature;

16 (4) may be subject to other general exclusions
17 and limitations of the insurer's policy, plan or certificate,
18 including coordination of benefits, participating provider
19 requirements, restrictions on services provided by family or
20 household members and utilization review of health care
21 services, including the review of medical necessity, case
22 management and other managed care provisions; and

23 (5) may be limited to exclude coverage for
24 services received under the federal Individuals with
25 Disabilities Education Improvement Act of 2004 and related

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1 state laws that place responsibility on state and local school
2 boards for providing specialized education and related services
3 to children three to twenty-two years of age who have autism
4 spectrum disorder.

5 C. The coverage required pursuant to Subsection A
6 of this section shall not be subject to dollar limits,
7 deductibles or coinsurance provisions that are less favorable
8 to an insured than the dollar limits, deductibles or
9 coinsurance provisions that apply to physical illnesses that
10 are generally covered under the individual or group health
11 insurance policy, health care plan or certificate of health
12 insurance, except as otherwise provided in Subsection B of this
13 section.

14 D. An insurer shall not deny or refuse to issue
15 health insurance coverage for medically necessary services or
16 refuse to contract with, renew, reissue or otherwise terminate
17 or restrict health insurance coverage for an individual because
18 the individual is diagnosed as having or receiving treatment
19 for an autism spectrum disorder.

20 E. The treatment plan required pursuant to
21 Subsection B of this section shall include all elements
22 necessary for the health insurance plan to pay claims
23 appropriately. These elements include:

- 24 (1) the diagnosis;
25 (2) the proposed treatment by types;

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- 1 (3) the frequency and duration of treatment;
- 2 (4) the anticipated outcomes stated as goals;
- 3 (5) the frequency with which the treatment
- 4 plan will be updated; and
- 5 (6) the signature of the treating physician.

6 F. This section shall not be construed as limiting
7 benefits and coverage otherwise available to an insured under a
8 health insurance policy, health care plan or certificate of
9 health insurance.

10 G. The provisions of this section shall not apply
11 to individual policies intended to supplement major medical
12 group-type coverages such as medicare supplement, long-term
13 care, disability income, specified disease, accident-only,
14 hospital indemnity or other limited-benefit health insurance
15 policies.

16 H. As used in this section:

- 17 (1) "autism spectrum disorder" means a
- 18 condition that meets the diagnostic criteria for the pervasive
- 19 developmental disorders published in the Diagnostic and
- 20 Statistical Manual of Mental Disorders, fourth edition, text
- 21 revision, also known as DSM-IV-TR, published by the American
- 22 psychiatric association; Asperger's disorder; pervasive
- 23 developmental disorder not otherwise specified, including
- 24 atypical autism; Rett's disorder; and childhood disintegrative
- 25 disorder;

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1 (2) "high school" means a school providing
2 instruction for any of the grades nine through twelve; and

3 (3) "services that are habilitative or
4 rehabilitative" means treatment programs that are necessary to
5 develop, maintain and restore to the maximum extent practicable
6 the functioning of the individual."

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