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HOUSE BILL 751

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

INTRODUCED BY

Karen E. Giannini

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING COVERAGE FOR DIAGNOSIS
OF AND TREATMENT FOR BEHAVIORAL HEALTH CONDITION, DEVELOPMENTAL
DISABILITY OR 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 DEVELOPMENTAL DISABILITY AND
AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. Any group health care coverage, including any
form of self-insurance, offered, issued or renewed under the
Health Care Purchasing Act on or after the open enrollment
period for the 2010 plan year shall provide coverage to
employees and their covered dependents who are under nineteen
years of age for:

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1 (1) well-baby and well-child screening for
2 diagnosing the presence of developmental disability or autism
3 spectrum disorder; and

4 (2) treatment of developmental disability or
5 autism spectrum disorder through speech therapy, occupational
6 therapy, physical therapy and applied behavioral analysis.

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

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

12 (2) shall be limited to fifty thousand dollars
13 (\$50,000) annually. Beginning January 1, 2011, the maximum
14 benefit shall be adjusted annually on January 1 to reflect any
15 change from the previous year in the medical component of the
16 then-current consumer price index for all urban consumers
17 published by the bureau of labor statistics of the United
18 States department of labor;

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

21 (4) may be subject to other general exclusions
22 and limitations of the group health care coverage, including
23 coordination of benefits, participating provider requirements,
24 restrictions on services provided by family or household
25 members and utilization review of health care services,

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1 including the review of medical necessity, case management and
2 other managed care provisions; and

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

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

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

24 E. The treatment plan required pursuant to
25 Subsection B of this section shall include all elements

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1 necessary for the group health care coverage plan to pay claims
2 appropriately. These elements include:

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

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

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

19 H. As used in this section:

- 20 (1) "autism spectrum disorder" means a
21 condition that meets the diagnostic criteria for the pervasive
22 developmental disorders published in the diagnostic and
23 statistical manual of mental disorders, fourth edition, text
24 revision, also known as DSM-IV-TR, published by the American
25 psychiatric association, including autistic disorder; Asperger

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1 disorder; pervasive development disorder not otherwise
2 specified, including atypical autism; Rett's disorder; and
3 childhood disintegrative disorder;

4 (2) "developmental disability" means a
5 condition where an individual has sub-average intellectual
6 functioning equivalent to an intelligence quotient scoring of
7 seventy or below and impaired adaptive skills that occurs prior
8 to age eighteen and meets the definition of mental retardation
9 in the diagnostic and statistical manual of mental disorders,
10 fourth edition, text revision, also known as DSM-IV-TR,
11 published by the American psychiatric association; and

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

16 Section 2. A new section of the Health Care Purchasing
17 Act is enacted to read:

18 "[NEW MATERIAL] COVERAGE FOR BEHAVIORAL HEALTH CONDITION
19 DIAGNOSIS AND TREATMENT.--

20 A. Beginning with the open enrollment period for
21 the 2010 plan year, group health care coverage, including any
22 form of self-insurance, offered, issued or renewed under the
23 Health Care Purchasing Act shall provide coverage to employees
24 and their covered dependents for behavioral health condition
25 diagnosis and treatment.

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1 B. Behavioral health coverage offered shall not
2 impose treatment limitations or financial requirements on the
3 provision of behavioral health benefits if identical
4 limitations or requirements are not imposed on coverage of
5 benefits for other conditions. Behavioral health coverage
6 shall not:

7 (1) require pre-admission screening prior to
8 the authorization of behavioral health benefits, whether
9 inpatient or outpatient; or

10 (2) apply limitations that restrict mental
11 health benefits provided under the plan to those that are
12 medically necessary.

13 C. Behavioral health coverage shall include:

14 (1) inpatient services, including a range of
15 physiological, psychological and other intervention concepts,
16 techniques and processes used in a community mental health
17 psychiatric inpatient unit, general hospital psychiatric unit
18 or psychiatric hospital licensed by the department of health or
19 in an accredited public hospital to restore psychosocial
20 functioning sufficient to allow maintenance and support of the
21 insured in a less restrictive setting;

22 (2) outpatient services, including screening,
23 evaluation, consultations, diagnosis and treatment involving
24 use of physiological, psychological and psychosocial evaluative
25 and intervention concepts, techniques and processes provided to

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1 individuals and groups; and

2 (3) licensed mental health professionals,
3 including an accredited public hospital or psychiatric hospital
4 or a community agency certified as a community mental health
5 center by the department of health. These providers shall
6 ensure that services are supervised by an appropriately
7 licensed mental health professional.

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

14 Section 3. A new section of Chapter 59A, Article 22 NMSA
15 1978 is enacted to read:

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

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

23 (1) well-baby and well-child screening for
24 diagnosing the presence of developmental disability or autism
25 spectrum disorder; and

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1 (2) treatment of developmental disability or
2 autism spectrum disorder through 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 fifty thousand dollars
10 (\$50,000) annually. Beginning January 1, 2011, the maximum
11 benefit shall be adjusted annually on January 1 to reflect any
12 change from the previous year in the medical component of the
13 then-current consumer price index for all urban consumers
14 published by the bureau of labor statistics of the United
15 States department of labor;

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

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

25 (5) may be limited to exclude coverage for

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1 services required under the federal Individuals with
2 Disabilities Education Act of 2004 and related state laws that
3 place responsibility on state and local school boards for
4 providing specialized education and related services to
5 children three to twenty-two years of age who have
6 developmental disabilities or autism spectrum disorder.

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

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

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

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

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

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

17 H. As used in this section:

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

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1 childhood disintegrative disorder;

2 (2) "developmental disability" means a
3 condition where an individual has sub-average intellectual
4 functioning equivalent to an intelligence quotient scoring of
5 seventy or below and impaired adaptive skills that occurs prior
6 to age eighteen and meets the definition of mental retardation
7 in the diagnostic and statistical manual of mental disorders,
8 fourth edition, text revision, also known as DSM-IV-TR,
9 published by the American psychiatric association; and

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

14 Section 4. A new section of Chapter 59A, Article 22 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] COVERAGE FOR BEHAVIORAL HEALTH CONDITION
17 DIAGNOSIS AND TREATMENT.--

18 A. An individual or group health insurance policy,
19 health care plan or certificate of health insurance that is
20 delivered, issued for delivery or renewed in this state on or
21 after September 17, 2009 shall provide coverage to employees
22 and their covered dependents for behavioral health condition
23 diagnosis and treatment.

24 B. Behavioral health coverage offered shall not
25 impose treatment limitations or financial requirements on the

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1 provision of behavioral health benefits if identical
2 limitations or requirements are not imposed on coverage of
3 benefits for other conditions. Behavioral health coverage
4 shall not:

5 (1) require pre-admission screening prior to
6 the authorization of behavioral health benefits, whether
7 inpatient or outpatient; or

8 (2) apply limitations that restrict mental
9 health benefits provided under the plan to those that are
10 medically necessary.

11 C. Behavioral health coverage shall include:

12 (1) inpatient services, including a range of
13 physiological, psychological and other intervention concepts,
14 techniques and processes used in a community mental health
15 psychiatric inpatient unit, general hospital psychiatric unit
16 or psychiatric hospital licensed by the department of health or
17 in an accredited public hospital to restore psychosocial
18 functioning sufficient to allow maintenance and support of the
19 insured in a less restrictive setting;

20 (2) outpatient services, including screening,
21 evaluation, consultations, diagnosis and treatment involving
22 use of physiological, psychological and psychosocial evaluative
23 and intervention concepts, techniques and processes provided to
24 individuals and groups; and

25 (3) licensed mental health professionals,

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1 including an accredited public hospital or psychiatric hospital
2 or a community agency certified as a community mental health
3 center by the department of health. These providers shall
4 ensure that services are supervised by an appropriately
5 licensed mental health professional.

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

12 Section 5. A new section of Chapter 59A, Article 23 NMSA
13 1978 is enacted to read:

14 "[NEW MATERIAL] COVERAGE FOR DEVELOPMENTAL DISABILITY AND
15 AUTISM SPECTRUM DISORDER 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 under nineteen years
20 of age for:

21 (1) well-baby and well-child screening for
22 diagnosing the presence of developmental disability or autism
23 spectrum disorder; and

24 (2) treatment of developmental disability or
25 autism spectrum disorder through speech therapy, occupational

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1 therapy, physical therapy and applied behavioral analysis.

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

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

7 (2) shall be limited to fifty thousand dollars
8 (\$50,000) annually. Beginning January 1, 2011, the maximum
9 benefit shall be adjusted annually on January 1 to reflect any
10 change from the previous year in the medical component of the
11 then-current consumer price index for all urban consumers
12 published by the bureau of labor statistics of the United
13 States department of 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 or plan, including
18 coordination of benefits, participating provider requirements,
19 restrictions on services provided by family or household
20 members and utilization review of health care services,
21 including the review of medical necessity, case management and
22 other managed care provisions; and

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

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1 place responsibility on state and local school boards for
2 providing specialized education and related services to
3 children three to twenty-two years of age who have
4 developmental disabilities or autism 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 blanket or group health
11 insurance policy or contract, except as otherwise provided in
12 Subsection B of this section.

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

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

- 23 (1) the diagnosis;
24 (2) the proposed treatment by types;
25 (3) the frequency and duration of treatment;

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1 (4) the anticipated outcomes stated as goals;

2 (5) the frequency with which the treatment
3 plan will be updated; and

4 (6) the signature of the treating physician.

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

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

14 H. As used in this section:

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

24 (2) "developmental disability" means a
25 condition where an individual has sub-average intellectual

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1 functioning equivalent to an intelligence quotient scoring of
2 seventy or below and impaired adaptive skills that occurs prior
3 to age eighteen and meets the definition of mental retardation
4 in the diagnostic and statistical manual of mental disorders,
5 fourth edition, text revision, also known as DSM-IV-TR,
6 published by the American psychiatric association; and

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

11 Section 6. A new section of Chapter 59A, Article 23 NMSA
12 1978 is enacted to read:

13 "[NEW MATERIAL] COVERAGE FOR BEHAVIORAL HEALTH CONDITION
14 DIAGNOSIS AND TREATMENT.--

15 A. A blanket or group health insurance policy or
16 contract that is delivered, issued for delivery or renewed in
17 this state on or after September 17, 2009 shall provide
18 coverage to an eligible individual for behavioral health
19 condition diagnosis and treatment.

20 B. Behavioral health coverage offered shall not
21 impose treatment limitations or financial requirements on the
22 provision of behavioral health benefits if identical
23 limitations or requirements are not imposed on coverage of
24 benefits for other conditions. Behavioral health coverage
25 shall not:

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1 (1) require pre-admission screening prior to
2 the authorization of behavioral health benefits, whether
3 inpatient or outpatient; or

4 (2) apply limitations that restrict mental
5 health benefits provided under the plan to those that are
6 medically necessary.

7 C. Behavioral health coverage shall include:

8 (1) inpatient services, including a range of
9 physiological, psychological and other intervention concepts,
10 techniques and processes used in a community mental health
11 psychiatric inpatient unit, general hospital psychiatric unit
12 or psychiatric hospital licensed by the department of health or
13 in an accredited public hospital to restore psychosocial
14 functioning sufficient to allow maintenance and support of the
15 insured in a less restrictive setting;

16 (2) outpatient services, including screening,
17 evaluation, consultations, diagnosis and treatment involving
18 use of physiological, psychological and psychosocial evaluative
19 and intervention concepts, techniques and processes provided to
20 individuals and groups; and

21 (3) licensed mental health professionals,
22 including an accredited public hospital or psychiatric hospital
23 or a community agency certified as a community mental health
24 center by the department of health. These providers shall
25 ensure that services are supervised by an appropriately

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1 licensed mental health professional.

2 D. The provisions of this section shall not apply
3 to individual policies intended to supplement major medical
4 group-type coverages such as medicare supplement, long-term
5 care, disability income, specified disease, accident only,
6 hospital indemnity or other limited-benefit health insurance
7 policies."

8 Section 7. A new section of the Health Maintenance
9 Organization Law is enacted to read:

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

12 A. An individual or group health maintenance
13 contract that is delivered, issued for delivery or renewed in
14 this state on or after September 17, 2009 shall provide
15 coverage to an eligible individual who is under nineteen years
16 of age for:

17 (1) well-baby and well-child screening for
18 diagnosing the presence of developmental disability or autism
19 spectrum disorder; and

20 (2) treatment of developmental disability or
21 autism spectrum disorder through speech therapy, occupational
22 therapy, physical therapy and applied behavioral analysis.

23 B. Coverage required pursuant to Subsection A of
24 this section:

25 (1) shall be limited to treatment that is

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1 prescribed by the insured's treating physician in accordance
2 with a treatment plan;

3 (2) shall be limited to fifty thousand dollars
4 (\$50,000) annually. Beginning January 1, 2011, the maximum
5 benefit shall be adjusted annually on January 1 to reflect any
6 change from the previous year in the medical component of the
7 then-current consumer price index for all urban consumers
8 published by the bureau of labor statistics of the United
9 States department of labor;

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

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

19 (5) may be limited to exclude coverage for
20 services required under the federal Individuals with
21 Disabilities Education Act of 2004 and related state laws that
22 place responsibility on state and local school boards for
23 providing specialized education and related services to
24 children three to twenty-two years of age who have
25 developmental disabilities or autism spectrum disorder.

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

9 D. An insurer shall not deny or refuse to issue
10 coverage for medically necessary services or refuse to contract
11 with, renew, reissue or otherwise terminate or restrict
12 coverage for an individual because the individual is diagnosed
13 as having or receiving treatment for a developmental disability
14 or an autism spectrum disorder.

15 E. The treatment plan required pursuant to
16 Subsection B of this section shall include all elements
17 necessary for the health insurance plan to pay claims
18 appropriately. These elements include:

- 19 (1) the diagnosis;
- 20 (2) the proposed treatment by types;
- 21 (3) the frequency and duration of treatment;
- 22 (4) the anticipated outcomes stated as goals;
- 23 (5) the frequency with which the treatment
24 plan will be updated; and
- 25 (6) the signature of the treating physician.

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1 F. This section shall not be construed as limiting
2 benefits and coverage otherwise available to an insured under a
3 health insurance plan.

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

10 H. As used in this section:

11 (1) "autism spectrum disorder" means a
12 condition that meets the diagnostic criteria for the pervasive
13 developmental disorders published in the diagnostic and
14 statistical manual of mental disorders, fourth edition, text
15 revision, also known as DSM-IV-TR, published by the American
16 psychiatric association, including autistic disorder; Asperger
17 disorder; pervasive development disorder not otherwise
18 specified, including atypical autism; Rett's disorder; and
19 childhood disintegrative disorder;

20 (2) "developmental disability" means a
21 condition where an individual has sub-average intellectual
22 functioning equivalent to an intelligence quotient scoring of
23 seventy or below and impaired adaptive skills that occurs prior
24 to age eighteen and meets the definition of mental retardation
25 in the diagnostic and statistical manual of mental disorders,

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1 fourth edition, text revision, also known as DSM-IV-TR,
2 published by the American psychiatric association; 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."

7 Section 8. A new section of the Health Maintenance
8 Organization Law is enacted to read:

9 "[NEW MATERIAL] COVERAGE FOR BEHAVIORAL HEALTH CONDITION
10 DIAGNOSIS AND TREATMENT.--

11 A. An individual or group health maintenance
12 contract that is delivered, issued for delivery or renewed in
13 this state on or after September 17, 2009 shall provide
14 coverage to an eligible individual for behavioral health
15 condition diagnosis and treatment.

16 B. Behavioral health coverage offered shall not
17 impose treatment limitations or financial requirements on the
18 provision of behavioral health benefits if identical
19 limitations or requirements are not imposed on coverage of
20 benefits for other conditions. Behavioral health coverage
21 shall not:

22 (1) require pre-admission screening prior to
23 the authorization of behavioral health benefits, whether
24 inpatient or outpatient; or

25 (2) apply limitations that restrict behavioral

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1 health benefits provided under the plan to those that are
2 medically necessary.

3 C. Behavioral health coverage shall include:

4 (1) inpatient services, including a range of
5 physiological, psychological and other intervention concepts,
6 techniques and processes used in a community mental health
7 psychiatric inpatient unit, general hospital psychiatric unit
8 or psychiatric hospital licensed by the department of health or
9 in an accredited public hospital to restore psychosocial
10 functioning sufficient to allow maintenance and support of the
11 insured in a less restrictive setting;

12 (2) outpatient services, including screening,
13 evaluation, consultations, diagnosis and treatment involving
14 use of physiological, psychological and psychosocial evaluative
15 and intervention concepts, techniques and processes provided to
16 individuals and groups; and

17 (3) licensed mental health professionals,
18 including an accredited public hospital or psychiatric hospital
19 or a community agency certified as a community mental health
20 center by the department of health. These providers shall
21 ensure that services are supervised by an appropriately
22 licensed mental health professional.

23 D. The provisions of this section shall not apply
24 to individual policies intended to supplement major medical
25 group-type coverages such as medicare supplement, long-term

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1 care, disability income, specified disease, accident only,
2 hospital indemnity or other limited-benefit health insurance
3 policies."

4 Section 9. A new section of the Nonprofit Health Care
5 Plan Law is enacted to read:

6 "[NEW MATERIAL] COVERAGE FOR DEVELOPMENTAL DISABILITY AND
7 AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

8 A. Beginning with the open enrollment period for
9 the 2010 plan year, group health care coverage, an individual
10 or group health insurance policy, health care plan or
11 certificate of health insurance delivered or issued for
12 delivery in this state shall provide coverage to an eligible
13 individual who is under nineteen years of age for:

14 (1) well-baby and well-child screening for
15 diagnosing the presence of developmental disability or autism
16 spectrum disorder; and

17 (2) treatment of developmental disability or
18 autism spectrum disorder through speech therapy, occupational
19 therapy, physical therapy and applied behavioral analysis.

20 B. Coverage required pursuant to Subsection A of
21 this section:

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

25 (2) shall be limited to fifty thousand dollars

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1 (\$50,000) annually. Beginning January 1, 2011, the maximum
2 benefit shall be adjusted annually on January 1 to reflect any
3 change from the previous year in the medical component of the
4 then-current consumer price index for all urban consumers
5 published by the bureau of labor statistics of the United
6 States department of labor;

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

9 (4) may be subject to other general exclusions
10 and limitations of the insurer's policy, plan or certificate,
11 including coordination of benefits, participating provider
12 requirements, restrictions on services provided by family or
13 household members and utilization review of health care
14 services, including the review of medical necessity, case
15 management and other managed care provisions; and

16 (5) may be limited to exclude coverage for
17 services required under the federal Individuals with
18 Disabilities Education Act of 2004 and related state laws that
19 place responsibility on state and local school boards for
20 providing specialized education and related services to
21 children three to twenty-two years of age who have
22 developmental disabilities or autism spectrum disorder.

23 C. The coverage required pursuant to Subsection A
24 of this section shall not be subject to dollar limits,
25 deductibles or coinsurance provisions that are less favorable

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1 to an insured than the dollar limits, deductibles or
2 coinsurance provisions that apply to physical illnesses that
3 are generally covered under the individual or group health
4 insurance policy, health care plan or certificate of health
5 insurance, except as otherwise provided in Subsection B of this
6 section.

7 D. An insurer shall not deny or refuse to issue
8 coverage for medically necessary services or refuse to contract
9 with, renew, reissue or otherwise terminate or restrict
10 coverage for an individual because the individual is diagnosed
11 as having or receiving treatment for a developmental disability
12 or an autism spectrum disorder.

13 E. The treatment plan required pursuant to
14 Subsection B of this section shall include all elements
15 necessary for the health insurance plan to pay claims
16 appropriately. These elements include:

- 17 (1) the diagnosis;
- 18 (2) the proposed treatment by types;
- 19 (3) the frequency and duration of treatment;
- 20 (4) the anticipated outcomes stated as goals;
- 21 (5) the frequency with which the treatment
22 plan will be updated; and
- 23 (6) the signature of the treating physician.

24 F. This section shall not be construed as limiting
25 benefits and coverage otherwise available to an insured under a

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1 health insurance policy, health care plan or certificate of
2 health insurance.

3 G. The provisions of this section shall not apply
4 to individual policies intended to supplement major medical
5 group-type coverages such as medicare supplement, long-term
6 care, disability income, specified disease, accident only,
7 hospital indemnity or other limited-benefit health insurance
8 policies.

9 H. As used in this section:

10 (1) "autism spectrum disorder" means a
11 condition that meets the diagnostic criteria for the pervasive
12 developmental disorders published in the diagnostic and
13 statistical manual of mental disorders, fourth edition, text
14 revision, also known as DSM-IV-TR, published by the American
15 psychiatric association, including autistic disorder; Asperger
16 disorder; pervasive development disorder not otherwise
17 specified, including atypical autism; Rett's disorder; and
18 childhood disintegrative disorder;

19 (2) "developmental disability" means a
20 condition where an individual has sub-average intellectual
21 functioning equivalent to an intelligence quotient scoring of
22 seventy or below and impaired adaptive skills that occurs prior
23 to age eighteen and meets the definition of mental retardation
24 in the diagnostic and statistical manual of mental disorders,
25 fourth edition, text revision, also known as DSM-IV-TR,

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1 published by the American psychiatric association; 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 10. A new section of the Nonprofit Health Care
7 Plan Law is enacted to read:

8 "[NEW MATERIAL] COVERAGE FOR BEHAVIORAL HEALTH CONDITION
9 DIAGNOSIS AND TREATMENT.--

10 A. Beginning with the open enrollment period for
11 the 2010 plan year, group health care coverage or an individual
12 or group health insurance policy, health care plan or
13 certificate of health insurance delivered or issued for
14 delivery in this state shall provide coverage for behavioral
15 health and developmental disability diagnosis and treatment.

16 B. Behavioral health coverage offered shall not
17 impose treatment limitations or financial requirements on the
18 provision of behavioral health benefits if identical
19 limitations or requirements are not imposed on coverage of
20 benefits for other conditions. Behavioral health coverage
21 shall not:

22 (1) require pre-admission screening prior to
23 the authorization of behavioral health benefits, whether
24 inpatient or outpatient; or

25 (2) apply limitations that restrict mental

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1 health benefits provided under the plan to those that are
2 medically necessary.

3 C. Behavioral health coverage shall include:

4 (1) inpatient services, including a range of
5 physiological, psychological and other intervention concepts,
6 techniques and processes used in a community mental health
7 psychiatric inpatient unit, general hospital psychiatric unit
8 or psychiatric hospital licensed by the department of health,
9 or in an accredited public hospital to restore psychosocial
10 functioning sufficient to allow maintenance and support of the
11 insured in a less restrictive setting;

12 (2) outpatient services, including screening,
13 evaluation, consultations, diagnosis and treatment involving
14 use of physiological, psychological and psychosocial evaluative
15 and intervention concepts, techniques and processes provided to
16 individuals and groups; and

17 (3) licensed mental health professionals,
18 including an accredited public hospital or psychiatric hospital
19 or a community agency certified as a community mental health
20 center by the department of health. These providers shall
21 ensure that services are supervised by an appropriately
22 licensed mental health professional.

23 D. The provisions of this section shall not apply
24 to individual policies intended to supplement major medical
25 group-type coverages such as medicare supplement, long-term

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1 care, disability income, specified disease, accident only,
2 hospital indemnity or other limited-benefit health insurance
3 policies."

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