

SENATE FLOOR SUBSTITUTE FOR
SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 39

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 Chapter 59A, Article 22 NMSA
1978 is enacted to read:

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

A. An individual or group health insurance policy,
health care plan or certificate of health insurance that is
delivered, issued for delivery or renewed in this state shall
provide coverage to an eligible individual who is nineteen
years of age or younger, or an eligible individual who is
twenty-two years of age or younger and is enrolled in high
school, for:

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underscored material = new
[bracketed material] = delete

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

3 (2) treatment of autism spectrum disorder
4 through speech therapy, occupational therapy, physical therapy
5 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, but
24 not limited to, coordination of benefits, participating
25 provider requirements, restrictions on services provided by

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1 family or household members and utilization review of health
 2 care services, including the review of medical necessity, case
 3 management and 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 autism spectrum disorder.

25 E. The treatment plan required pursuant to

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1 Subsection B of this section shall include all elements
2 necessary for the health insurance plan to pay claims
3 appropriately. These elements include, but are not limited to:

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

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

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

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1 Asperger's disorder; pervasive development disorder not
2 otherwise specified; Rett's disorder; and childhood
3 disintegrative disorder;

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

8 (3) "high school" means a school providing
9 instruction for any of the grades nine through twelve."

10 Section 2. A new section of Chapter 59A, Article 23 NMSA
11 1978 is enacted to read:

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

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

20 (1) well-baby and well-child screening for
21 diagnosing the presence of autism spectrum disorder; and

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

25 B. Coverage required pursuant to Subsection A of
.176652.2

underscored material = new
[bracketed material] = delete

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 or plan, including, but
18 not limited to, coordination of benefits, participating
19 provider requirements, restrictions on services provided by
20 family or household members and utilization review of health
21 care 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 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 health insurance coverage for medically necessary services or
15 refuse to contract with, renew, reissue or otherwise terminate
16 or restrict health insurance coverage for an individual because
17 the individual is diagnosed as having autism spectrum disorder.

18 E. The treatment plan required pursuant to
19 Subsection B of this section shall include all elements
20 necessary for the health insurance plan to pay claims
21 appropriately. These elements include, but are not limited to:

- 22 (1) the diagnosis;
- 23 (2) the proposed treatment by types;
- 24 (3) the frequency and duration of treatment;
- 25 (4) the anticipated outcomes stated as goals;

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

3 (6) the signature of the treating physician.

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

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

12 H. As used in this section:

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

22 (2) "habilitative or rehabilitative services"
23 means treatment programs that are necessary to develop,
24 maintain and restore to the maximum extent practicable the
25 functioning of an individual; and

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

3 Section 3. A new section of Chapter 59A, Article 46 NMSA
4 1978 is enacted to read:

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

7 A. An individual or group health maintenance
8 contract that is delivered, issued for delivery or renewed in
9 this state shall provide coverage to an eligible individual who
10 is nineteen years of age or younger, or an eligible individual
11 who is twenty-two years of age or younger and is enrolled in
12 high school, for:

13 (1) well-baby and well-child screening for
14 diagnosing the presence of autism spectrum disorder; and

15 (2) treatment of autism spectrum disorder
16 through speech therapy, occupational therapy, physical therapy
17 and applied behavioral analysis.

18 B. Coverage required pursuant to Subsection A of
19 this section:

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

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

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1 Beginning January 1, 2011, the maximum benefit shall be
2 adjusted annually on January 1 to reflect any change from the
3 previous year in the medical component of the then-current
4 consumer price index for all urban consumers published by the
5 bureau of labor statistics of the United States department of
6 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 or plan, including, but
11 not limited to, coordination of benefits, participating
12 provider requirements, restrictions on services provided by
13 family or household members and utilization review of health
14 care 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 received under the federal Individuals with
18 Disabilities Education Improvement Act of 2004 and related
19 state laws that place responsibility on state and local school
20 boards for providing specialized education and related services
21 to children three to twenty-two years of age who have autism
22 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 maintenance contract, except as otherwise provided in
 5 Subsection B of this section.

6 D. An insurer shall not deny or refuse to issue
 7 health insurance coverage for medically necessary services or
 8 refuse to contract with, renew, reissue or otherwise terminate
 9 or restrict health insurance coverage for an individual because
 10 the individual is diagnosed as having autism spectrum disorder.

11 E. The treatment plan required pursuant to
 12 Subsection B of this section shall include all elements
 13 necessary for the health insurance plan to pay claims
 14 appropriately. These elements include, but are not limited to:

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

22 F. This section shall not be construed as limiting
 23 benefits and coverage otherwise available to an insured under a
 24 health insurance plan.

25 G. The provisions of this section shall not apply

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1 to policies intended to supplement major medical group-type
2 coverages such as medicare supplement, long-term care,
3 disability income, specified disease, accident only, hospital
4 indemnity or other limited-benefit health insurance policies.

5 H. As used in this section:

6 (1) "autism spectrum disorder" means a
7 condition that meets the diagnostic criteria for the pervasive
8 developmental disorders published in the *Diagnostic and*
9 *Statistical Manual of Mental Disorders*, fourth edition, text
10 revision, also known as DSM-IV-TR, published by the American
11 psychiatric association, including autistic disorder;
12 Asperger's disorder; pervasive development disorder not
13 otherwise specified; Rett's disorder; and childhood
14 disintegrative disorder;

15 (2) "habilitative or rehabilitative services"
16 means treatment programs that are necessary to develop,
17 maintain and restore to the maximum extent practicable the
18 functioning of an individual; and

19 (3) "high school" means a school providing
20 instruction for any of the grades nine through twelve."

21 Section 4. A new section of Chapter 59A, Article 47 NMSA
22 1978 is enacted to read:

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

25 A. An individual or group health insurance policy,

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1 health care plan or certificate of health insurance delivered
2 or issued for delivery in this state shall provide coverage to
3 an eligible individual who is twenty-two years of age or
4 younger and is enrolled in high school, for:

5 (1) well-baby and well-child screening for
6 diagnosing the presence of autism spectrum disorder; and

7 (2) treatment of autism spectrum disorder
8 through speech therapy, occupational therapy, physical therapy
9 and applied behavioral analysis.

10 B. Coverage required pursuant to Subsection A of
11 this section:

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

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

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

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

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1 (4) may be subject to other general exclusions
2 and limitations of the insurer's policy or plan, including, but
3 not limited to, coordination of benefits, participating
4 provider requirements, restrictions on services provided by
5 family or household members and utilization review of health
6 care services, including the review of medical necessity, case
7 management and other managed care provisions; and

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

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

23 D. An insurer shall not deny or refuse to issue
24 health insurance coverage for medically necessary services or
25 refuse to contract with, renew, reissue or otherwise terminate

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1 or restrict health insurance coverage for an individual because
 2 the individual is diagnosed as having autism spectrum disorder.

3 E. The treatment plan required pursuant to
 4 Subsection B of this section shall include all elements
 5 necessary for the health insurance plan to pay claims
 6 appropriately. These elements include, but are not limited to:

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

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

17 G. The provisions of this section shall not apply
 18 to policies intended to supplement major medical group-type
 19 coverages such as medicare supplement, long-term care,
 20 disability income, specified disease, accident only, hospital
 21 indemnity or other limited-benefit health insurance 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 development disorder not
5 otherwise specified; Rett's disorder; and childhood
6 disintegrative disorder;

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

11 (3) "high school" means a school providing
12 instruction for any of the grades nine through twelve."