HOUSE BILL 322

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO HEALTH COVERAGE; AMENDING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROHIBIT AGE AND DOLLAR LIMITS ON SERVICES RELATED TO AUTISM SPECTRUM DISORDER; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE MEDICAL ASSISTANCE COVERAGE FOR AUTISM SPECTRUM DISORDER WITHOUT AGE OR DOLLAR LIMITS.

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

SECTION 1. Section 13-7-16 NMSA 1978 (being Laws 2013, Chapter 185, Section 1) is amended to read:

"13-7-16. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT--PERMISSIBLE LIMITATIONS.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health .211627.3
Care Purchasing Act shall provide coverage for [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]:

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

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

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

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

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

(3) may be subject to other general exclusions of the group health coverage, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

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

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an enrollee on the basis of the enrollee's age.

[D] The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to a covered individual than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the group health coverage, except as otherwise provided in Subsection B of this section.

[E] A group health plan shall not deny or refuse health coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

[F] The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the group health coverage to pay claims appropriately. These elements include [but are not limited
to):

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

[F.] G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under group health coverage.

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

[H.] I. As used in this section:

(1) "autism spectrum disorder" means:

   (a) a condition that meets the diagnostic criteria [for the pervasive developmental disorders] for autism spectrum disorder published in the current edition of the Diagnostic and Statistical Manual of Mental Disorders [current edition] published by the American psychiatric association [including]; or

   (b) a condition diagnosed as autistic 211627.3
disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder [and] or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association;

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

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

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"[NEW MATERIAL] MEDICAL ASSISTANCE--AUTISM SPECTRUM DISORDER.--

A. The secretary shall ensure that medical assistance coverage provides coverage, which shall not be subject to age restrictions or dollar limits, for:

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

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

B. Coverage required pursuant to Subsection A of 21627.3
this section:

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

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

(3) may be subject to other general exclusions and limitations of medical assistance coverage, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

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

C. The coverage required pursuant to Paragraph (1) of Subsection A of this section shall not be subject to any recipient cost-sharing.

D. The coverage required pursuant to Paragraph (2) of Subsection A of this section shall not be subject to cost-
sharing provisions that are less favorable to a recipient than
the cost-sharing provisions that apply to physical illnesses
that are generally covered through medical assistance coverage,
except as otherwise provided in Subsection B of this section.

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

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

F. This section shall not be construed as limiting
benefits and coverage otherwise available to a recipient
through medical assistance coverage.

G. As used in this section:

(1) "autism spectrum disorder" means:
     (a) a condition that meets the
diagnostic criteria for autism spectrum disorder published in
the current edition of the Diagnostic and Statistical Manual of
Mental Disorders published by the American psychiatric
association; or
(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association;

(2) "cost-sharing" means any deductible, copayment, coinsurance or other payment that a recipient is required to pay for medical assistance items or services provided through medical assistance coverage; and

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

SECTION 3. Section 59A-22-49 NMSA 1978 (being Laws 2009, Chapter 74, Section 1) is amended to read:

"59A-22-49. 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]."
school insured for:

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

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

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

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

(2) shall not be limited to thirty-six thousand dollars ($36,000) annually and shall not exceed two hundred thousand dollars ($200,000) in total lifetime benefits. Beginning January 1, 2011, the maximum benefit shall be adjusted annually on January 1 to reflect any change from the previous year in the medical component of the then-current consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor subject to annual or lifetime dollar limits;

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

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

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

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an insured on the basis of the insured's age.

[D.] The coverage required pursuant to Subsection A of this section shall not be subject to [dollar limits] deductibles or coinsurance provisions that are less favorable to an insured than the [dollar limits] deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the individual or group health insurance policy, health care plan or certificate of health insurance, except as otherwise provided in Subsection B of this section.

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

[F.] The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health insurance plan to pay claims appropriately. These elements include [but are not limited to]:

(1) the diagnosis;

(2) the proposed treatment by types;

(3) the frequency and duration of treatment;

(4) the anticipated outcomes stated as goals;

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

(6) the signature of the treating physician.

[G.] This section shall not be construed as limiting benefits and coverage otherwise available to an insured under a health insurance plan.

[H.] The provisions of this section shall not apply to policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only accident-only, hospital indemnity or other limited-benefit

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health insurance policies.

I. As used in this section:

1. "autism spectrum disorder" means:

   (a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the Diagnostic and Statistical Manual of Mental Disorders [fourth edition, text revision, also known as DSM-IV-TR] published by the American psychiatric association [including autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder, and childhood disintegrative disorder]; or

   (b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association;

2. "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual; and

3. "high school" means a school providing instruction for any of the grades nine through twelve."
SECTION 4. Section 59A-23-7.9 NMSA 1978 (being Laws 2009, Chapter 74, Section 2) is amended to read:

"59A-23-7.9. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. A blanket or group health insurance policy or contract 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, insured for:

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

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

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

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

(2) shall be limited to thirty-six thousand dollars ($36,000) annually and shall not exceed two hundred thousand dollars ($200,000) in total lifetime benefits. Beginning January 1, 2011, the maximum benefit shall be adjusted annually on January 1 to reflect any change from the..."
previous year in the medical component of the then-current consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor] not be subject to annual or lifetime dollar limits;

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

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

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

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an insured on the basis of the insured's age.

[D. The coverage required pursuant to .211627.3

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Subsection A of this section shall not be subject to [dollar limits] deductibles or coinsurance provisions that are less favorable to an insured than the [dollar limits] deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the blanket or group health insurance policy or contract, except as otherwise provided in Subsection B of this section.

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

[E-] F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health insurance plan to pay claims appropriately. These elements include [but are not limited to]:

1. the diagnosis;
2. the proposed treatment by types;
3. the frequency and duration of treatment;
4. the anticipated outcomes stated as goals;
5. the frequency with which the treatment plan will be updated; and
6. the signature of the treating physician.
[F.] G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under a health insurance plan.

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

[H.] I. As used in this section:

(1) "autism spectrum disorder" means:

(a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the Diagnostic and Statistical Manual of Mental Disorders [fourth edition, text revision, also known as DSM-IV-TR] published by the American psychiatric association [including autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder, and childhood disintegrative disorder]; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the Diagnostic and
Statistical Manual of Mental Disorders published by the American psychiatric association;

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

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

SECTION 5. Section 59A-46-50 NMSA 1978 (being Laws 2009, Chapter 74, Section 3) is amended to read:

"59A-46-50. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. An individual or group health maintenance contract 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] enrollee for:

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

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

B. Coverage required pursuant to Subsection A of this section:
(1) shall be limited to treatment that is prescribed by the enrollee's treating physician in accordance with a treatment plan;

(2) shall be limited to thirty-six thousand dollars ($36,000) annually and shall not exceed two hundred thousand dollars ($200,000) in total lifetime benefits. Beginning January 1, 2011, the maximum benefit shall be adjusted annually on January 1 to reflect any change from the previous year in the medical component of the then-current consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor; not be subject to annual or lifetime dollar limits;

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

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

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

C. Coverage for treatment of autism spectrum
disorder through speech therapy, occupational therapy, physical
therapy and applied behavioral analysis shall not be denied to
an enrollee on the basis of the enrollee's age.

[D.] D. The coverage required pursuant to
Subsection A of this section shall not be subject to [dollar
limits] deductibles or coinsurance provisions that are less
favorable to an [insured] enrollee than the [dollar limits]
deductibles or coinsurance provisions that apply to physical
illnesses that are generally covered under the individual or
group health maintenance contract, except as otherwise provided
in Subsection B of this section.

[E.] E. A carrier shall not deny or
refuse to issue [health insurance coverage] a health
maintenance organization contract for medically necessary
services or refuse to contract with, renew, reissue or
otherwise terminate or restrict health [insurance] maintenance
organization coverage for an individual because the individual
is diagnosed as having autism spectrum disorder.

[F.] F. The treatment plan required pursuant to
Subsection B of this section shall include all elements
necessary for the health insurance plan maintenance organization contract to pay claims appropriately. These elements include [but are not limited to]:

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

[F] G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured enrollee under a health insurance plan maintenance organization contract.

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

[H] I. As used in this section:

(1) "autism spectrum disorder" means:
   (a) a condition that meets the diagnostic criteria for the pervasive developmental disorders published in the current edition of the Diagnostic and
"Statistical Manual of Mental Disorders" [fourth edition, text revision, also known as DSM-IV-TR] published by the American psychiatric association [including autistic disorder; Asperger's disorder; pervasive development disorder not otherwise specified; Rett's disorder; and childhood disintegrative disorder]; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association; and

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

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

SECTION 6. Section 59A-47-45 NMSA 1978 (being Laws 2009, Chapter 74, Section 4) is amended to read:

"59A-47-45. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

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

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

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

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

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

(2) shall [be limited to thirty-six thousand
dollars ($36,000) annually and shall not exceed two hundred
thousand dollars ($200,000) in total lifetime benefits.
Beginning January 1, 2011, the maximum benefit shall be
adjusted annually on January 1 to reflect any change from the
previous year in the medical component of the then-current
consumer price index for all urban consumers published by the
bureau of labor statistics of the United States department of
labor] not be subject to any annual or lifetime dollar limits;

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

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

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

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to a subscriber on the basis of the subscriber's age.

[D. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to an insured than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the individual or group health maintenance contract, except as otherwise provided in .211627.3]
Subsection B of this section.

[D. An insurer] E. A health care plan shall not deny or refuse to issue health insurance care plan coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health insurance coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

[E.] F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health insurance care plan to pay claims appropriately. These elements include [but are not limited to]:

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

[F.] G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under a health insurance care plan.

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

[H+] I. As used in this section:

(1) "autism spectrum disorder" means:

(a) a condition that meets the diagnostic criteria for [the pervasive developmental disorders] autism spectrum disorder published in the current edition of the Diagnostic and Statistical Manual of Mental Disorders [fourth edition, text revision, also known as DSM-IV-TR] published by the American psychiatric association [including autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder, and childhood disintegrative disorder]; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association; and

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual [and
(3) "high school" means a school providing instruction for any of the grades nine through twelve."