

**SUBSTITUTE FOR
SENATE BILL NO. 981**

A bill to create an autism coverage incentive program to encourage insurance and health coverage providers to provide autism coverage; to impose certain duties on certain state departments, agencies, and officials; to create certain funds; to authorize certain expenditures; and to provide for an appropriation.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "autism coverage incentive act".

3 Sec. 3. As used in this act:

4 (a) "Autism coverage incentive program" or "program" means the
5 autism coverage incentive program created under section 5.

6 (b) "Autism spectrum disorders", "diagnosis of autism spectrum
7 disorders", and "treatment of autism spectrum disorders" mean those
8 terms as defined under section 416e of the nonprofit health care

1 corporation reform act, 1980 PA 350, MCL 550.1416e, and section
2 3406s of the insurance code of 1956, 1956 PA 218, MCL 500.3406s.

3 (c) "Carrier" means any of the following:

4 (i) An insurer or health maintenance organization regulated
5 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
6 500.8302.

7 (ii) A health care corporation regulated under the nonprofit
8 health care corporation reform act, 1980 PA 350, MCL 550.1101 to
9 550.1704.

10 (iii) A specialty prepaid health plan.

11 (iv) A group health plan sponsor including, but not limited to,
12 1 or more of the following:

13 (A) An employer if a group health plan is established or
14 maintained by a single employer.

15 (B) An employee organization if a plan is established or
16 maintained by an employee organization.

17 (C) If a plan is established or maintained by 2 or more
18 employers or jointly by 1 or more employers and 1 or more employee
19 organizations, the association, committee, joint board of trustees,
20 or other similar group of representatives of the parties that
21 establish or maintain the plan.

22 (d) "Department" means the department of licensing and
23 regulatory affairs.

24 (e) "Excess loss" or "stop loss" means coverage that provides
25 insurance protection against the accumulation of total claims
26 exceeding a stated level for a group as a whole or protection
27 against a high-dollar claim on any 1 individual.

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1 (f) "Federal act" means the federal patient protection and
2 affordable care act, Public Law 111-148, as amended by the federal
3 health care and education reconciliation act of 2010, Public Law
4 111-152, and any regulations promulgated under those acts.

5 (g) "Federal employee health benefit program" means the
6 program of health benefits plans, as defined in 5 USC 8901,
7 available to federal employees under 5 USC 8901 to 8914.

8 (h) "Fund" means the autism coverage fund created in section
9 7.

10 (i) "Group health plan" means an employee welfare benefit plan
11 as defined in section 3(1) of subtitle A of title I of the employee
12 retirement income security act of 1974, Public Law 93-406, 29 USC
13 1002, to the extent that the plan provides medical care, including
14 items and services paid for as medical care to employees or their
15 dependents as defined under the terms of the plan directly or
16 through insurance, reimbursement, or otherwise.

17 (j) "Health and medical services" means 1 or more of the
18 following:

19 (i) Services included in furnishing medical care, dental care,
20 pharmaceutical benefits, or hospitalization, including, but not
21 limited to, services provided in a hospital or other medical
22 facility.

23 (ii) Ancillary services, including, but not limited to,
24 ambulatory services and emergency and nonemergency transportation.

25 (iii) Services provided by a ~~<<physician or other practitioner,~~
26 ~~including, but not limited to, an individual engaged in a health~~
27 ~~profession, other than veterinarians, marriage and family~~

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~~1 therapists, athletic trainers, massage therapists, licensed
2 professional counselors, and sanitarians, as defined by article 15
3 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.
licensed physician or a licensed psychologist.>>~~

4 (iv) Behavioral health services, including, but not limited to,
5 mental health and substance abuse services.

6 (k) "Medicaid" means the program of medical assistance
7 established under title XIX of the social security act, 42 USC 1396
8 to 1396W-5.

9 (l) "Medicare" means the federal medicare program established
10 under title XVIII of the social security act, 42 USC 1395 to
11 1395kkk-1.

12 (m) "Medicare advantage plan" means a plan of coverage for
13 health benefits under part C of title XVIII of the social security
14 act, 42 USC 1395w-21 to 1395w-28.

15 (n) "Medicare part D" means a plan of coverage for
16 prescription drug benefits under part D of title XVIII of the
17 social security act, 42 USC 1395w-101 to 1395w-154.

18 (o) "Paid claims" means actual payments, net of recoveries,
19 made to a health and medical services provider or reimbursed to an
20 individual by a carrier, third party administrator, or excess loss
21 or stop loss carrier. Paid claims do not include any of the
22 following:

23 (i) Claims paid for services rendered to a nonresident of this
24 state.

25 (ii) Claims paid for services rendered to a person covered
26 under a health benefit plan for federal employees.

27 (iii) Claims paid for services rendered outside of this state to

1 a person who is a resident of this state.

2 (iv) Claims paid under a federal employee health benefit
3 program, medicare, medicare advantage plan, medicare part D,
4 tricare, by the United States veterans administration, and for
5 high-risk pools established pursuant to the federal act.

6 (v) Health and medical services costs paid by an individual
7 for cost-sharing requirements, including deductibles, coinsurance,
8 or copays.

9 (vi) Claims paid by, or on behalf of, this state.

10 (vii) Claims paid that are covered by medicaid.

11 (viii) Claims paid for which the carrier or third party
12 administrator has already been reimbursed or compensated, in whole
13 or in part, through any increase in premiums or rates or from any
14 other source.

15 (ix) Beginning January 1, 2014, claims paid for services that
16 are included in the essential health benefits as required pursuant
17 to the federal act.

18 (p) "Specialty prepaid health plan" means that term as
19 described in section 109f of the social welfare act, 1939 PA 280,
20 MCL 400.109f.

21 (q) "Third party administrator" means an entity that processes
22 claims under a service contract and that may also provide 1 or more
23 other administrative services under a service contract.

24 Sec. 5. (1) No later than 120 days after the effective date of
25 this act, the department shall create and operate an autism
26 coverage incentive program to encourage and provide incentives for
27 carriers and third party administrators to provide coverage for the

1 diagnosis of autism spectrum disorders and treatment of autism
2 spectrum disorders and, to the extent coverage for the diagnosis of
3 autism spectrum disorders and treatment of autism spectrum
4 disorders is required under section 416e of the nonprofit health
5 care corporation reform act, 1980 PA 350, MCL 550.1416e, or section
6 3406s of the insurance code of 1956, 1956 PA 218, MCL 500.3406s, to
7 offset any additional costs that may be incurred as a result of the
8 mandate.

9 (2) The department shall develop the application, approval,
10 and compliance process necessary to operate and manage this
11 program. The department shall develop and implement the use of an
12 application form to be used by carriers and third party
13 administrators who seek reimbursement for the coverage of autism
14 spectrum disorders. The program standards, guidelines, templates,
15 and any other forms used by the department to implement this
16 program shall be published and available on the department's
17 website.

18 (3) Subject to the limitations provided under this section,
19 the program shall, as approved by the department, reimburse
20 carriers and third party administrators in an amount equal to the
21 amount of paid claims paid, after the effective date at the
22 amendatory act that added section 416e of the nonprofit health care
23 corporation act, 1980 PA 350, MCL 550.1416e, by the carrier or
24 third party administrator for the diagnosis of autism spectrum
25 disorders and treatment of autism spectrum disorders. A carrier or
26 third party administrator shall apply, on the form prescribed by
27 the department, for approval of funding associated with paid claims

1 for the diagnosis of autism spectrum disorders and treatment of
2 autism spectrum disorders. As part of the application, the
3 applicant shall include documentation verifying those paid claims
4 for which they are seeking reimbursement under this program. In
5 determining whether to approve an application for the reimbursement
6 of paid claims under this section, the department may review
7 whether the treatment for which the paid claims were paid is
8 consistent with current protocols and cost-containment practices as
9 described in section 416e(3) of the nonprofit health care
10 corporation reform act, 1980 PA 350, MCL 550.1416e, or section
11 3406s(3) of the insurance code of 1956, 1956 PA 218, MCL 500.3406s.
12 The department shall review and consider applications in the order
13 in which they are received and shall approve or deny an application
14 within 30 days after receipt of the application.

15 (4) To the extent there is a cap on the amount of coverage
16 mandated under section 416e of the nonprofit health care
17 corporation reform act, 1980 PA 350, MCL 550.1416e, or section
18 3406s of the insurance code of 1956, 1956 PA 218, MCL 500.3406s,
19 the department shall not approve more than the mandated amount to
20 any carrier or third party administrator that seeks reimbursement
21 under this act for paid claims related to the diagnosis of autism
22 spectrum disorders and treatment of autism spectrum disorders

23 (5) If a third party administrator receives any funding under
24 this program, the third party administrator shall apply that
25 funding to the benefit of the carrier covering the claim upon which
26 the funding was received.

27 Sec. 7. (1) The autism coverage fund is created within the

1 state treasury.

2 (2) The state treasurer may receive money or other assets from
3 any source for deposit into the fund. The state treasurer shall
4 direct the investment of the fund. The state treasurer shall credit
5 to the fund interest and earnings from fund investments.

6 (3) The department shall be the administrator of the fund for
7 auditing purposes. The department shall expend money from the fund,
8 upon appropriation, only for the purpose of creating, operating,
9 and funding the autism coverage incentive program created under
10 this act.

11 (4) The department shall reimburse carriers and third party
12 administrators from the fund in the order in which the applications
13 are approved under the program. If there is insufficient money in
14 the fund to reimburse a carrier or third party administrator for
15 paid claims approved under section 5, then reimbursement shall not
16 be made. However, applications that are approved but not reimbursed
17 may be paid if revenues of the fund become available.

18 (5) Money in the fund at the close of the fiscal year shall
19 remain in the fund and shall not lapse to the general fund.

20 Sec. 9. The department shall submit an annual report to the
21 state budget director and the senate and house of representatives
22 standing committees on appropriations not later than April 1 of
23 each year that includes, but is not limited to, all of the
24 following:

25 (a) The total number of applications received under this
26 program in the immediately preceding calendar year.

27 (b) The number of applications approved and the total amount

1 of funding awarded under this program in the immediately preceding
2 calendar year.

3 (c) The amount of administrative costs used to administer the
4 program in the immediately preceding calendar year.

5 Sec. 11. (1) It is the policy of this state to encourage
6 carriers and third party administrators to provide autism coverage.
7 It is the intent of the legislature to further this policy by the
8 provisions of this act and by providing annual appropriations to
9 establish, implement, and administer this act and adequately fund
10 the autism coverage incentive program established by this act.

11 (2) The department shall not exercise its authority under this
12 act until the legislature has appropriated sufficient funds to
13 cover the same.

14 (3) Not more than 1% of the annual appropriation made to the
15 autism coverage fund may be used for the purpose of administering
16 the program uthorized under this act.

17 Enacting section 1. This act does not take effect unless all
18 of the following bills of the 96th Legislature are enacted into
19 law:

20 (a) Senate Bill No. 414.

21 (b) Senate Bill No. 415.