

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 981

A bill to create an autism coverage reimbursement 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 reimbursement act".

3 Sec. 3. As used in this act:

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

6 (b) "Autism diagnostic observation schedule", "autism spectrum
7 disorders", "diagnosis of autism spectrum disorders", and
8 "treatment of autism spectrum disorders" mean those terms as

1 defined under section 416e of the nonprofit health care corporation
2 reform act, 1980 PA 350, MCL 550.1416e, and section 3406s of the
3 insurance code of 1956, 1956 PA 218, MCL 500.3406s.

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

5 (i) An insurer or health maintenance organization regulated
6 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
7 500.8302.

8 (ii) A health care corporation regulated under the nonprofit
9 health care corporation reform act, 1980 PA 350, MCL 550.1101 to
10 550.1704.

11 (iii) A specialty prepaid health plan.

12 (iv) A group health plan sponsor including, but not limited to,
13 1 or more of the following:

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

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

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

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

25 (e) "Excess loss" or "stop loss" means coverage that provides
26 insurance protection against the accumulation of total claims
27 exceeding a stated level for a group as a whole or protection

1 against a high-dollar claim on any 1 individual.

2 (f) "Federal act" means the federal patient protection and
3 affordable care act, Public Law 111-148, as amended by the federal
4 health care and education reconciliation act of 2010, Public Law
5 111-152, and any regulations promulgated under those acts.

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

9 (h) "Fund" means the autism coverage fund created in section
10 7.

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

18 (j) "Medicaid" means the program of medical assistance
19 established under title XIX of the social security act, 42 USC 1396
20 to 1396w-5.

21 (k) "Medicare" means the federal medicare program established
22 under title XVIII of the social security act, 42 USC 1395 to
23 1395kkk-1.

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

27 (m) "Medicare part D" means a plan of coverage for

1 prescription drug benefits under part D of title XVIII of the
2 social security act, 42 USC 1395w-101 to 1395w-154.

3 (n) "Paid claims" means actual payments, net of recoveries,
4 made for the diagnosis of autism spectrum disorders and treatment
5 of autism spectrum disorders whether made to a provider or
6 reimbursed to an individual by a carrier, third party
7 administrator, or excess loss or stop loss carrier. Paid claims do
8 not include any of the following:

9 (i) Claims paid for services rendered to a nonresident of this
10 state.

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

13 (iii) Claims paid for services rendered outside of this state to
14 a person who is a resident of this state.

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

19 (v) Costs paid by an individual for cost-sharing requirements,
20 including deductibles, coinsurance, or copays.

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

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

23 (viii) Claims paid for which the carrier or third party
24 administrator has already been reimbursed or compensated, in whole
25 or in part, through any increase in premiums or rates or from any
26 other source.

27 (ix) Beginning January 1, 2014, claims paid for services that

1 are included in the essential health benefits as required pursuant
2 to the federal act.

3 (o) "Specialty prepaid health plan" means that term as
4 described in section 109f of the social welfare act, 1939 PA 280,
5 MCL 400.109f.

6 (p) "Third party administrator" means an entity that processes
7 claims under a service contract and that may also provide 1 or more
8 other administrative services under a service contract.

9 Sec. 5. (1) No later than 120 days after the effective date of
10 this act, the department shall create and operate an autism
11 coverage reimbursement program to encourage carriers to provide
12 coverage for the diagnosis of autism spectrum disorders and
13 treatment of autism spectrum disorders and, to the extent coverage
14 for the diagnosis of autism spectrum disorders and treatment of
15 autism spectrum disorders is required under section 416e of the
16 nonprofit health care corporation reform act, 1980 PA 350, MCL
17 550.1416e, or section 3406s of the insurance code of 1956, 1956 PA
18 218, MCL 500.3406s, to offset any additional costs that may be
19 incurred as a result of the mandate.

20 (2) The department shall develop the application, approval,
21 and compliance process necessary to operate and manage this
22 program. The department shall develop and implement the use of an
23 application form to be used by carriers and third party
24 administrators who seek reimbursement for the coverage of autism
25 spectrum disorders. The program standards, guidelines, templates,
26 and any other forms used by the department to implement this
27 program shall be published and available on the department's

1 website.

2 (3) Subject to the limitations provided under this section,
3 the program shall, as approved by the department, reimburse
4 carriers and third party administrators in an amount equal to the
5 amount of paid claims that are paid 180 days after the effective
6 date of this act by the carrier or third party administrator. A
7 carrier or third party administrator shall apply, on the form
8 prescribed by the department, for approval of funding associated
9 with paid claims. As part of the application, the applicant shall
10 include the results from a completed autism diagnostic observation
11 schedule or the results from any other annual development
12 evaluation and documentation verifying those paid claims for which
13 they are seeking reimbursement under this program. In determining
14 whether to approve an application for the reimbursement of paid
15 claims under this section, the department may review whether the
16 treatment for which the paid claims were paid is consistent with
17 current protocols and cost-containment practices as described in
18 section 416e of the nonprofit health care corporation reform act,
19 1980 PA 350, MCL 550.1416e, or section 3406s of the insurance code
20 of 1956, 1956 PA 218, MCL 500.3406s. The department shall review
21 and consider applications in the order in which they are received
22 and shall approve or deny an application within 30 days after
23 receipt of the application.

24 (4) To the extent there is a cap on the amount of coverage
25 mandated under section 416e of the nonprofit health care
26 corporation reform act, 1980 PA 350, MCL 550.1416e, or section
27 3406s of the insurance code of 1956, 1956 PA 218, MCL 500.3406s,

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1 the department shall not approve more than the mandated amount to
2 any carrier or third party administrator that seeks reimbursement
3 under this act for paid claims.

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

[(6) If the department determines at the end of the fiscal year
that a carrier was not fully reimbursed for paid claims paid due to a
shortfall in the reimbursement fund for the fiscal year, and the carrier
increases its rates in the following year to cover the total amount of
such unreimbursed paid claims, the rate increase shall not be considered
reimbursement or compensation for paid claims paid under section
3(n)(viii), if the commissioner determines that such rate increase is a
reasonable recoupment of the amount of such unreimbursed paid claims.]

8 Sec. 7. (1) The autism coverage fund is created within the
9 state treasury.

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

14 (3) The department shall be the administrator of the fund for
15 auditing purposes. The department shall expend money from the fund,
16 upon appropriation, only for the purpose of creating, operating,
17 and funding the program.

18 (4) The department shall reimburse carriers and third party
19 administrators from the fund in the order in which the applications
20 are approved under the program. If there is insufficient money in
21 the fund to reimburse a carrier or third party administrator for
22 paid claims approved under section 5, then reimbursement shall not
23 be made. However, applications that are approved but not reimbursed
24 may be paid if revenues of the fund become available.

25 (5) The department shall develop and implement a process to
26 notify carriers, third party administrators, and the legislature
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27 that funds in this program may be insufficient to cover future

1 claims when the department reasonably believes that within 60 days
2 the funds in the program will be insufficient to pay claims. The
3 process shall, at a minimum, do all of the following:

4 (a) Identify a specific date by which carriers and third party
5 administrators will no longer receive reimbursement for claims
6 submitted to the program.

7 (b) Outline a clear process indicating the order in which
8 claims pending with the program will be paid.

9 (c) Outline a clear process indicating the order in which
10 claims that were pending with the program when funds became
11 insufficient will be paid if funds subsequently become available.

12 (6) Money in the fund at the close of the fiscal year shall
13 remain in the fund and shall not lapse to the general fund.

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

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

21 (b) The number of applications approved and the total amount
22 of funding awarded under this program in the immediately preceding
23 calendar year.

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

26 Sec. 11. (1) The department shall not implement the program
27 under this act until the legislature has appropriated sufficient

1 funds to cover the same.

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

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

8 (a) Senate Bill No. 414.

9 (b) Senate Bill No. 415.