

SENATE BILL No. 981

February 23, 2012, Introduced by Senators RICHARDVILLE, GREEN, MARLEAU, BOOHER, KAHN and HUNTER and referred to the Committee on Health Policy.

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.

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, health professionals, other than
27 veterinarians, marriage and family therapists, athletic trainers,

1 massage therapists, licensed professional counselors, and
2 sanitarians, as defined by article 15 of the public health code,
3 1978 PA 368, MCL 333.16101 to 333.18838.

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, chapter
8 531, 49 Stat. 620, 42 USC 1396 to 1396g and 1396i to 1396u.

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-29.

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-152.

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 patient protection and
6 affordable care act, Public Law 111-148, and the health care and
7 education reconciliation act of 2010, Public Law 111-152.

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

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

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

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

17 (ix) Beginning January 1, 2014, claims paid for services that
18 are included in the essential health benefits requirements of the
19 federal act and provided through a qualified health plan offered
20 through an American health benefit exchange established in this
21 state pursuant to the federal act.

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

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

1 Sec. 5. (1) No later than 120 days after the effective date of
2 this act, the department shall create and operate an autism
3 coverage incentive program to encourage and provide incentives for
4 carriers and third party administrators to provide coverage for the
5 diagnosis of autism spectrum disorders and treatment of autism
6 spectrum disorders and, to the extent coverage for the diagnosis of
7 autism spectrum disorders and treatment of autism spectrum
8 disorders is required under section 416e of the nonprofit health
9 care corporation reform act, 1980 PA 450, MCL 550.1416e, or section
10 3406s of the insurance code of 1956, 1956 PA 218, MCL 500.3406s, to
11 offset any additional costs that may be incurred as a result of the
12 mandate.

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

22 (3) Subject to the limitations provided under this section,
23 the program shall provide funds, as approved by the department, to
24 reimburse carriers and third party administrators in an amount
25 equal to the amount of paid claims paid by the carrier or third
26 party administrator for the diagnosis of autism spectrum disorders
27 and treatment of autism spectrum disorders. A carrier or third

1 party administrator shall apply, on the form prescribed by the
2 department, for approval of funding associated with paid claims for
3 the diagnosis of autism spectrum disorders and treatment of autism
4 spectrum disorders. As part of the application, the applicant shall
5 include documentation verifying those paid claims for which they
6 are seeking reimbursement under this program. In determining
7 whether to approve an application for the reimbursement of paid
8 claims under this section, the department may review whether the
9 treatment for which the paid claims were paid is consistent with
10 current protocols and cost-containment practices as described in
11 section 416e(3) of the nonprofit health care corporation reform
12 act, 1980 PA 450, MCL 550.1416e, or section 3406s(3) of the
13 insurance code of 1956, 1956 PA 218, MCL 500.3406s. The department
14 shall approve or deny an application within 30 days after receipt
15 of the application.

16 (4) To the extent there is a cap on the amount of coverage
17 mandated under section 416e of the nonprofit health care
18 corporation reform act, 1980 PA 450, MCL 550.1416e, or section
19 3406s of the insurance code of 1956, 1956 PA 218, MCL 500.3406s,
20 the department shall not approve more than the mandated amount to
21 any carrier or third party administrator that seeks reimbursement
22 under this act for paid claims related to the diagnosis of autism
23 spectrum disorders and treatment of autism spectrum disorders.

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

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

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

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

12 (4) 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) It is the policy of this state to encourage
27 carriers and third party administrators to provide autism coverage.

1 It is the intent of the legislature to further this policy by the
2 provisions of this act and by providing annual appropriations to
3 establish, implement, and administer this act and adequately fund
4 the autism coverage incentive program established by this act.

5 (2) The department shall not make a commitment or exercise its
6 authority under this act until the legislature has appropriated
7 sufficient funds to cover the same.

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

11 (4) Not later than March 1 of each year, the department shall
12 report to the appropriations committees of the house of
13 representatives and the senate and to the house and senate fiscal
14 agencies the costs incurred for administration and compliance
15 requirements as of the end of the immediately preceding state
16 fiscal year.

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.