

# Legislative Analysis

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## **AUTISM: MANDATE INSURANCE BENEFITS**

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**House Bill 4183 (Substitute H-1)**  
**Sponsor: Rep. Richard Ball**

**House Bill 4476 (Substitute H-1)**  
**Sponsor: Rep. Kathy Angerer**  
**Committee: Health Policy**

**Complete to 6-24-09**

## **A REVISED SUMMARY OF HOUSE BILLS 4183 & 4476 AS REPORTED FROM COMMITTEE ON 6-9-09**

The bills, which are almost identical, would amend the insurance laws to require health insurers to provide coverage for the diagnosis and treatment of autism spectrum disorder. This is a summary of the content of the bills as reported from the Health Policy Committee. A more detailed analysis of the policy implications of the legislation is in process.

Applicability. The bills apply to certificates, policies, and contracts delivered, executed, issued, adjusted, or renewed in the state (or – for commercial insurers and HMOs – outside the state if covering residents of Michigan) 60 days after the date the bills are enacted into law.

Coverage. There would be no limits on the number of visits a member, insured, or enrollee (hereinafter *insured*) could make to an autism services provider. Except for applied behavior analysis (ABA), coverage would not be subject to dollar limits, copays, deductibles, or coinsurance provisions that did not apply to physical illness generally. Coverage for ABA could be subject to a maximum annual benefit of \$50,000. Beginning March 31, 2011, the annual maximum for ABA would be adjusted for inflation (or deflation) based on the medical care component of the consumer price index for the immediately preceding calendar year.

These benefits cannot be construed as limiting benefits otherwise available to an insured under a certificate.

These benefits would not be available to a short-term or one-time limited duration policy or certificate of no longer than six months issued by a commercial insurer or HMO under provisions of the Insurance Code. Further, a commercial insurer or HMO could not terminate coverage or refuse to deliver, execute, issue, amend, or renew coverage solely because an individual was diagnosed with, or had received treatment for, an autism spectrum disorder.

Review of services. An insurer could request a review of an autism spectrum disorder treatment but not more than once every six months unless the insurer and the treating physician or psychologist agrees that a more frequent review is necessary. The insurer would bear the cost of the review.

Definitions. Among the many terms defined by the bills are the following:

"Applied behavior analysis" would be defined to mean the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relations between environment and behavior.

"Autism spectrum disorder" would mean any of the pervasive developmental disorders as defined by the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), including autistic disorder, Asperger's disorder, and pervasive developmental disorder not otherwise specified.

"Diagnosis of autism spectrum disorders" would mean medically necessary assessments, evaluations, or tests to diagnose whether an individual has one of the autism spectrum disorders.

"Medically necessary" would mean reasonably expected to do one or more of the following: prevent the onset of an illness, condition, injury, or disability; reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability; and assist to achieve, maintain, or restore maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and the functional capacities that are appropriate for individuals of the same age.

"Treatment for autism spectrum disorder" would mean treatment that satisfied both of the following:

- Was supported by not fewer than two articles from major peer-reviewed medical journals that presented data to support the proposed treatment as generally safe and effective for autism spectrum disorder and where there were no clear and convincing contradictory data presented in a major peer-reviewed medical journal. The articles would have to be based on a prospective, cohort random clinical trial study.
- Included the following care prescribed, provided, or ordered for an individual diagnosed with one of the autism spectrum disorders by a licensed physician or psychologist who determined the care to be medically necessary: habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care. These terms are defined in the bill, as well.

House Bill 4183 would amend the Insurance Code (MCL 500.3406s), which regulates commercial insurers and health maintenance organizations (HMOs), to apply to expense-incurred hospital, medical, or surgical policies or certificates and HMO contracts.

House Bill 4476 would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1416e), which regulates Blue Cross Blue Shield of Michigan, to apply to group or individual health plans.

## **FISCAL IMPACT:**

The bill would have no significant fiscal impact on the Department of Energy, Labor, and Economic Growth (Office of Financial and Insurance Regulation) in administering the additional requirements as set forth in the legislation. Beyond that, however, the bills would have significant cost implications, which are indeterminate at this time, on the state and on local governmental units, as well as the private sector. The Council for Affordable Health Insurance (CAHI), for instance, notes that mandated autism coverage increases health insurance costs by about one percent, although given the increased incidence of autism diagnoses (and the push for expanded services), the increase is expected to be between one percent and three percent in the coming years<sup>1</sup>. Similarly, the New Jersey Mandated Health Benefits Advisory Commission estimated, in a 2007 study, that mandated autism insurance coverage, based on actuarial data, increased premiums for a family by 0.79%<sup>2</sup>. Similar estimates were submitted to the Pennsylvania Health Care Cost Containment Council<sup>3</sup>. Beyond the impact on insurance premiums there is a substantial body of literature assessing the cost effectiveness of applied behavioral analysis (ABA) and expanding early intensive behavioral intervention (EIBI) activities<sup>4</sup>. This analysis will be updated as additional information becomes available.

## **POSITIONS:**

**The following organizations, agencies, and associations testified in support of, or indicated support for, the bills on 6-2-09 or 6-9-09:**

Monroe County ISD  
DTE Energy  
Early Intervention Center  
AIM  
Michigan Environmental Council  
Autism Speaks  
Michigan Council for Maternal & Child Health

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<sup>1</sup> *The Growing Trend Toward Mandating Autism Coverage*, The Center for Affordable Health Insurance, March 2009, [[http://www.cahi.org/cahi\\_contents/resources/pdf/n152AutismTrend.pdf](http://www.cahi.org/cahi_contents/resources/pdf/n152AutismTrend.pdf)].

<sup>2</sup> *A Study of Assembly Bill A-999*, New Jersey Mandated Health Benefits Advisory Commission, February 2007, [[http://nj.gov/dobi/division\\_insurance/mhbac/070314\\_A999rpt\\_MHBAC.pdf](http://nj.gov/dobi/division_insurance/mhbac/070314_A999rpt_MHBAC.pdf)].

<sup>3</sup> *Autism Spectrum Disorders Mandated Benefits Review Panel Report: Evidence Submitted Concerning Pennsylvania HB 1150*, prepared by ABT Associates Inc. for the Pennsylvania Health Care Cost Containment Council, June 2008, [<http://www.phc4.org/reports/mandates/HB1150/AutismPanelReport061808.pdf>].

<sup>4</sup> *Early Intensive Applied Behavior Analytic Intervention for Autism: Selected Resources*, Association of Professional Behavior Analysts, October 2008, [<http://www.apbahome.net/downloads/EarlyIntABARefs10-08.pdf>]

Detroit Medical Center  
William Beaumont Hospital  
Michigan Nurses Association  
Michigan Association of School Psychologists  
Michigan Speech-Language-Hearing Association  
Elder Disability Rights Section of the State Bar of Michigan House of Representatives  
Michigan Association of School Boards  
Michigan Association of School Administrators  
Michigan Secondary School Principals  
Michigan Pharmacists Association  
Michigan Elementary & Middle School Principals Association  
Middle Cities Education Association  
Michigan PTA  
Area Agencies on Aging Association of Michigan

**The following organizations, agencies, and associations testified in opposition of, or indicated opposition to, the bills on 6-2-09 or 6-9-09:**

Michigan AFL-CIO  
International Union, UAW  
Michigan Manufacturers Association  
Michigan Association of Health Underwriters  
National Federation of Independent Business  
Grand Rapids Chamber of Commerce  
Chrysler LLC  
Economic Alliance for Michigan  
Michigan Association of Health Plans  
Blue Cross Blue Shield of Michigan (opposed the bills as introduced, but indicated the organization was working with the bills' sponsors)  
Michigan Chamber of Commerce  
Small Business Association of Michigan

The Michigan Chapter American Academy of Pediatrics opposes mandating a specific form of treatment to be covered by insurance, as a wide range of evidence based treatments needs to be available for children with ASD and other developmental behavioral disorders. The association also supports mental health parity from all health plans and for all diagnoses.

**The following entities support the concept of a comprehensive approach for mental health parity, which would provide parity for all brain disorders, including autism spectrum disorder, developmental disorders, mental illness, and substance abuse:**

Michigan Association of Community Mental Health Boards  
National Association of Social Workers – Michigan Chapter  
Michigan Partners for Parity  
The ARC Michigan

Michigan Psychiatric Society  
Association for Children's Mental Health  
NAMI Michigan Public Policy Committee

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Mark Wolf

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.