

2007 DRAFTING REQUEST

Bill

Received: **01/17/2007**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Rhodes**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - health**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Rhodes, BB0387 -

Topic:

Insurance coverage of autism, Asperger's and pervasive developmental disorders

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 01/17/2007	wjackson 01/18/2007		_____			S&L
/P1			rschluet 01/19/2007	_____	sbasford 01/19/2007		S&L
/P2	pkahler 01/23/2007	jdyer 01/24/2007	pgreensl 01/24/2007	_____	cduerst 01/24/2007		

FE Sent For:

<END>

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/?	pkahler 01/17/2007	wjackson 01/18/2007					S&L
/P1		RZ 1/24 JLD	rschluet 01/19/2007	by PV JK	sbasford 01/19/2007		

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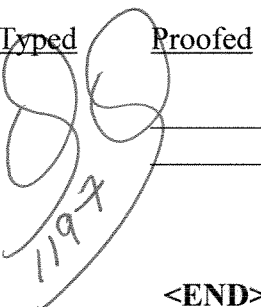
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/?	pkahler	1/17/18					

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Autism, Aspergers's and Pervasive Developmental Disorders Insurance
Mandate BB0387
- Tracking Code:
- SBO team: Health and Insurance
- SBO analyst: Dennis Rhodes
 - Phone: 6-2288
 - Email: dennis.rhodes@wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435
- Priority: High

Please draft provisions that mandate health insurance carriers to cover Autism, Aspergers's and Pervasive Developmental Disorders.

Kahler, Pam

From: Rhodes, Dennis - DOA
Sent: Tuesday, January 16, 2007 12:38 PM
To: Kahler, Pam
Subject: Autism

Pam,

I think Sue mentioned the decision to draft an Autism mandate. I've looked at this in the past and one place that has an autism specific mandate, rather than a general parity mandate which is interpreted to cover autism, is Indiana. They call it coverage for Pervasive Developmental Disorders.

Here is a link to Indiana's stat language.

<http://www.in.gov/legislative/ic/code/title27/ar8/ch14.2.pdf>

Here is a link to Indiana's Insurance Bureau that attempts to clarify the benefit.

<http://www.in.gov/idoi/lookAtTheLaw/pdfs/Bulletin136.pdf>

We'll send a formal drafting request shortly.

Thanks,

Dennis Rhodes
6-2288

Insurance Coverage for Pervasive Developmental Disorders

This Bulletin is directed to all insurance companies that issue accident and sickness insurance policies as defined in IC 27-8-14.2-1 and to health maintenance organizations (HMOs) as defined in IC 27-13-1-19. Coverage for Pervasive Developmental Disorders (PDD) is a very complex issue. In 2001, the Indiana General Assembly passed P.L. 148-2001 adding IC 27-8-14.2 and IC 27-13-7-14.7. These provisions increased insurance coverage for persons suffering with PDD from what was available in the insurance market at that time. As is often the case, the bill that was passed contained compromises from the bills that were introduced, debated and amended. After a bill is passed and the statute is implemented it is not uncommon for interested persons to continue to dispute the meaning of the final language. The Department of Insurance is charged with implementing the provisions of Title 27. The Department must implement the statutes as they are written, giving meaning to each word of the statute. This Bulletin is intended to provide guidance to insurers and to consumers on contract language and administration of claims for the treatment of PDD as required by IC 27-8-14.2 and IC 27-13-7-14.7.

IC 27-8-14.2-4 requires that a group accident and sickness insurance policy must provide coverage for the treatment of PDD of an insured. IC 27-8-14.2-5 requires insurers that issue individual policies of accident and sickness insurance to offer to provide coverage for the treatment of PDD. And, IC 27-13-7-14.7 requires an HMO that provides basic health care services to provide services for the treatment of PDD of an enrollee. Neither insurers nor HMOs can deny or refuse to issue coverage on, refuse to contract with, or refuse to renew, or reissue or otherwise terminate coverage on an individual solely because the individual is diagnosed with PDD.

A written treatment plan for each individual with PDD must be developed and signed by the treating physician. The treatment plan should be submitted to the insurer or HMO as soon as possible after its development to facilitate the payment of claims. If a non-physician recommends the treatment plan, it must be approved and signed by the treating physician. The Department of Insurance recognizes the insurer's or HMO's right to review the services prescribed under the treatment plan as to medical necessity. The insurer or HMO shall consult with the treating physician in its consideration of the treatment plan. Any challenge to medical necessity will be viewed as reasonable only if the review is by a specialist in the treatment of PDD. A specialist includes a clinical employee such as a medical director or PhD clinical administrator, provider or consultant of the insurer or HMO, and has specialized and current knowledge of PDD. Any challenge to medical necessity will be treated the same as any other grievance, following the grievance and appeals process as defined in IC 27-8-28, IC 27-8-29, IC 27-13-10, and IC 27-13-10.1.

The treatment plan must include all elements necessary for the insurer or HMO to appropriately pay claims. These elements include but are not limited to: a diagnosis, proposed treatment by type(s), frequency and duration of treatment(s), the anticipated outcomes stated as goals, the frequency by which the treatment plan will be updated, and the treating physician's signature. The insurer must provide, in writing, its determination regarding coverage for the services and supplies prescribed by the treatment plan within thirty (30) days of the insurer or HMO receiving the treatment plan. The insurer or HMO shall provide specific contact information for provider or member questions and shall facilitate filing of claims. An insurer or HMO that fails to provide its determination on the treatment plan within 30 days may be subject to enforcement action under IC 27-4-1-4.5.

Recognizing that PDD is a neurological condition, services will be provided without interruption, as long as those services are consistent with the treatment plan and with medical necessity decisions. Service exclusions contained in the insurance policy or HMO contract that are inconsistent with the treatment plan will be considered invalid as to PDD. However, coverage of services may be subject to other general exclusions and limitations of the contract or benefit plan, such as coordination of benefits, participating provider requirements, services provided by family or household members, eligibility, appeals processes, and carved out services (e.g. if the employer elects not to provide pharmacy coverage for any employees). IC 27-8-14.2-4(b), IC 27-8-14.2-5(b) and IC 27-13-7-14.7(c) and (e) state that the coverage or services that must be offered "may 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 illness generally" under the accident and sickness policy or contract with the health maintenance organization. This provision allows the insurer or HMO to apply dollar limits, deductibles, co-payments and coinsurance as long as the application is consistent with coverage for physical illness generally. The Department considers dollar limits and visit limits to be synonymous for the purposes of this bulletin.

It is the Department's position that behavioral therapies such as Applied Behavioral Analysis Services may not be subject to limitations that apply to therapies such as physical, occupational or speech therapy. Further, Indiana does not currently have a licensing requirement for persons who perform Applied Behavioral Analysis Services. It is, therefore, inappropriate at this time for an insurer or HMO to deny a claim based upon the fact that the provider of Applied Behavioral Analysis Services does not hold a license.

The insurer shall have the right to request an updated treatment plan not more than once every six (6) months from the treating physician to review medical necessity, unless the insurer or HMO and the provider agree that a more frequent review is necessary due to emerging clinical circumstances. The cost of obtaining an updated treatment plan at the request of the insurer or HMO shall be borne by the insurer or HMO. This review does not alter the requirements and rights described in IC 27-8-29, IC 27-13-10 and IC 27-13-10.1.

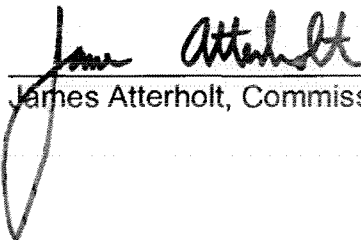
It is important for consumers to review their insurance coverage. For persons covered by individual policies, insurers are required to provide the insured with a copy of their insurance contract. For persons covered by group insurance policies or HMO contracts, the insurer or HMO is required to provide a copy of the certificate or evidence of coverage. While the insurer is not required to provide each covered person with a copy of the group insurance contract it should be made available if requested.

The insurance policies and HMO contracts affected by this Bulletin are required to be filed and approved by the Department. As guidance to the companies the Department approves the following language in its entirety:

1. Pervasive Development Disorder means a neurological condition, including but not limited to Asperger's syndrome and autism, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.
2. Coverage for services will be provided as prescribed by the insured's treating physician in accordance with a treatment plan.
3. Any exclusion within the policy, certificate or contract that is inconsistent with the treatment plan does not apply.
4. The benefits for Pervasive Developmental Disorder will not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable than the dollar limits, deductibles, or coinsurance provisions that apply to physical illness generally under the accident and sickness insurance policy, certificate or HMO contract.

Any form in conflict with this Bulletin should be revised and filed with the Department. Policies, certificates, contracts, endorsements, or riders already approved for use may be used until the employer contract is amended, renewed, or terminated. However, the Department requires effective with the date of this Bulletin any insurer or HMO that is interpreting its policies more restrictively than the standards of this Bulletin shall adjudicate claims consistent with the provisions of the Bulletin. The Consumer Protection Unit of the Department encourages individuals to contact the Department with any concerns over the payment of claims. Each complaint will be reviewed individually for compliance with all applicable statutes.

INDIANA DEPARTMENT OF INSURANCE



James Atterholt, Commissioner

IC 27-8-14.2

Chapter 14.2. Insurance Coverage for Pervasive Developmental Disorders

IC 27-8-14.2-1

"Accident and sickness insurance policy" defined

Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a).

(b) The term does not include the following:

- (1) Accident-only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Worker's compensation or similar insurance.
- (4) Automobile medical payment insurance.
- (5) A specified disease policy issued as an individual policy.
- (6) A limited benefit health insurance policy issued as an individual policy.
- (7) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (8) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

As added by P.L.148-2001, SEC.2.

IC 27-8-14.2-2

"Insured" defined

Sec. 2. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

As added by P.L.148-2001, SEC.2.

IC 27-8-14.2-3

"Pervasive developmental disorder" defined

Sec. 3. As used in this chapter, "pervasive developmental disorder" means a neurological condition, including Asperger's syndrome and autism, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

As added by P.L.148-2001, SEC.2.

IC 27-8-14.2-4

Group coverage required

Sec. 4. (a) An accident and sickness insurance policy that is issued on a group basis must provide coverage for the treatment of a pervasive developmental disorder of an insured. Coverage provided under this section is limited to treatment that is prescribed by the insured's treating physician in accordance with a treatment plan. An

insurer may not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew, refuse to reissue, or otherwise terminate or restrict coverage on an individual under an insurance policy solely because the individual is diagnosed with a pervasive developmental disorder.

(b) The coverage required under this section may 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 illness generally under the accident and sickness insurance policy.

As added by P.L.148-2001, SEC.2.

IC 27-8-14.2-5

Individual coverage required

Sec. 5. (a) An insurer that issues an accident and sickness insurance policy on an individual basis must offer to provide coverage for the treatment of a pervasive developmental disorder of an insured. Coverage provided under this section is limited to treatment that is prescribed by the insured's treating physician in accordance with a treatment plan. An insurer may not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew, refuse to reissue, or otherwise terminate or restrict coverage on an individual under an insurance policy solely because the individual is diagnosed with a pervasive developmental disorder.

(b) The coverage that must be offered under this section may 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 illness generally under the accident and sickness insurance policy.

As added by P.L.148-2001, SEC.2.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1553/7

PJK:.....

wlj

P1

Please fix request sheet.

DOA:.....Rhodes, BB0387 - Insurance coverage of autism, aspergers and pervasive developmental disorders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

(in 1-17)
D-vote ✓

Lps: Please check autoref.

do not generate

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

INSURANCE

This bill requires health insurance policies and governmental self-insured plans to cover the cost of treatment for pervasive developmental disorders that is prescribed for an insured by the insured's treating physician in accordance with a treatment plan. "Pervasive developmental disorder" is defined in the bill as a neurological disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, and includes autism and Asperger's syndrome. The coverage requirement applies to both individual and group health insurance policies and plans, including defined network plans and cooperative sickness care associations; to health care plans offered by the state to its employees, including a self-insured plan; and to self-insured health plans of counties, cities, towns, villages, and school districts. The requirement specifically does not apply to limited-scope benefit plans, medicare replacement or supplement policies, long-term care policies, or policies covering only certain specified diseases. The coverage may be subject to any limitations or exclusions or cost-sharing provisions that apply generally under the policy or plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

of Mental Disorders

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.51 (8) of the statutes is amended to read:

2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
4 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
5 (6), 632.895 (5m) and (8) to ~~(14)~~ (15), and 632.896.

6 **SECTION 2.** 40.51 (8m) of the statutes is amended to read:

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(14)~~ (15).

10 **SECTION 3.** 66.0137 (4) of the statutes is amended to read:

11 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
12 a village provides health care benefits under its home rule power, or if a town
13 provides health care benefits, to its officers and employees on a self-insured basis,
14 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
15 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), (5),
16 and (6), 632.895 (9) to ~~(14)~~ (15), 632.896, and 767.513 (4).

17 **SECTION 4.** 111.91 (2) (n) of the statutes is amended to read:

18 111.91 (2) (n) The provision to employees of the health insurance coverage
19 required under s. 632.895 (11) to ~~(14)~~ (15).

20 **SECTION 5.** 120.13 (2) (g) of the statutes is amended to read:

1 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
2 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
3 632.85, 632.853, 632.855, 632.87 (4), (5), and (6), 632.895 (9) to (14) (15), 632.896, and
4 767.513 (4).

5 **SECTION 6.** 185.981 (4t) of the statutes is amended to read:

6 185.981 (4t) A sickness care plan operated by a cooperative association is
7 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
8 632.853, 632.855, 632.87 (2m), (3), (4), (5), and (6), 632.895 (10) to (14) (15), and
9 632.897 (10) and chs. 149 and 155.

10 **SECTION 7.** 185.983 (1) (intro.) of the statutes is amended to read:

11 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
12 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
13 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
14 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
15 632.855, 632.87 (2m), (3), (4), (5), and (6), 632.895 (5) and (9) to (14) (15), 632.896, and
16 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
17 shall:

18 **SECTION 8.** 609.87 of the statutes is created to read:

19 **609.87 Coverage of treatment for pervasive developmental disorders.**

20 Defined network plans are subject to s. 632.895 (15).

21 **SECTION 9.** 632.895 (15) of the statutes is created to read:

22 **632.895 (15) TREATMENT FOR PERVASIVE DEVELOPMENTAL DISORDERS.** (a) In this
23 subsection, "pervasive developmental disorder" means a neurological condition,
24 including autism and Asperger's syndrome, as defined in the most recent edition of

1 the Diagnostic and Statistical Manual of ^ethe Mental Disorders of the American
2 Psychiatric Association.

3 (b) Except as provided in par. (d), every disability insurance policy, and every
4 self-insured health plan of the state or a county, city, town, village, or school district,
5 that provides coverage of physician's services shall provide coverage of treatment for
6 a pervasive developmental disorder that is prescribed for an insured by the insured's
7 treating physician in accordance with a treatment plan, including applied
8 behavioral analysis treatment.

9 (c) The coverage required under par. (b) may be subject to any limitations,
10 exclusions, and cost-sharing provisions that apply generally under the disability
11 insurance policy or self-insured health plan.

12 (d) This subsection does not apply to any of the following:

13 1. A disability insurance policy that covers only certain specified diseases.

~~14~~ 2. A health care plan offered by a limited service health organization, as defined
15 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
16 a defined network plan, as defined in s. 609.01 (1b).

17 3. A long-term care insurance policy.

18 4. A medicare replacement policy or a medicare supplement policy.

19 **SECTION 9325. Initial applicability; Insurance.**

^{auto ref}
~~20~~ (1) COVERAGE OF TREATMENT FOR PERVASIVE DEVELOPMENTAL DISORDERS. The
21 treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
22 185.981 (4t), 185.983 (1) (intro.), 609.87, and 632.895 (15) of the statutes first applies
23 to all of the following:

1 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
2 that are issued or renewed, and self-insured health plans that are established,
3 extended, modified, or renewed, on the effective date of this paragraph.

4 (b) Disability insurance policies covering employees who are affected by a
5 collective bargaining agreement containing provisions inconsistent with this act
6 that are issued or renewed on the earlier of the following:

- 7 1. The day on which the collective bargaining agreement expires.
- 8 2. The day on which the collective bargaining agreement is extended, modified,
9 or renewed.

10 (c) Self-insured health plans covering employees who are affected by a
11 collective bargaining agreement containing provisions inconsistent with this act
12 that are established, extended, modified, or renewed on the earlier of the following:

- 13 1. The day on which the collective bargaining agreement expires.
- 14 2. The day on which the collective bargaining agreement is extended, modified,
15 or renewed.

16 **SECTION 9425. Effective dates; Insurance.**

17 (1) COVERAGE OF TREATMENT FOR PERVASIVE DEVELOPMENTAL DISORDERS. The
18 treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
19 185.981 (4t), 185.983 (1) (intro.), 609.87, and 632.895 (15) of the statutes and SECTION
20 9325 (1) of this act take effect on the first day of the 7th month beginning after
21 publication.

22 (END)

auto ref

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1553/7dn

PJK:.....

WLj

PI

Dennis:

I drafted this insurance mandate in the usual manner with the provisions that generally apply to mandates in s. 632.895. I thought it might be useful for you to see this and modify it as needed. I don't know the exact problem with coverage of these disorders that you are trying to address.

I wasn't sure if treatment of the disorders in this bill is normally provided by a physician, but that is the link I included in s. 632.895 (15) (b). If treatment is not normally provided by a physician, the draft will have to be changed to include an appropriate link or to simply require the coverage, regardless of what else the policy covers.

I'm a bit uncomfortable with the definition of "pervasive developmental disorder" under the Indiana law. I assume that the definition means to say that "pervasive developmental disorder" is defined in the Diagnostic and Statistical Manual of the AMA (manual), but from the way it is drafted in the Indiana law, it appears that "neurological condition" is the term defined in the manual. Since I don't know what is defined in the manual, I used the Indiana law's language. Also, relying on the definition used in the manual may be an unconstitutional delegation of law-making authority. It also may not be readily obvious which edition is the most recent. What if the manual drops the definition of that term altogether and uses a different term?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

(I)
of
Mental
Disorders

P

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1553/P1dn
PJK:wj:rs

January 19, 2007

Dennis:

I drafted this insurance mandate in the usual manner with the provisions that generally apply to mandates in s. 632.895. I thought it might be useful for you to see this and modify it as needed. I don't know the exact problem with coverage of these disorders that you are trying to address.

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I'm a bit uncomfortable with the definition of "pervasive developmental disorder" under the Indiana law. I assume that the definition means to say that "pervasive developmental disorder" is defined in the *Diagnostic and Statistical Manual of Mental Disorders* of the APA (manual), but from the way it is drafted in the Indiana law, it appears that "neurological condition" is the term defined in the manual. Since I don't know what is defined in the manual, I used the Indiana law's language. Also, relying on the definition used in the manual may be an unconstitutional delegation of law-making authority. It also may not be readily obvious which edition is the most recent. What if the manual drops the definition of that term altogether and uses a different term?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Rhodes, Dennis - DOA
Sent: Friday, January 19, 2007 11:53 AM
To: Kahler, Pam
Subject: RE: LRB Draft: 07-1553/P1 Insurance coverage of autism, Asperger's and pervasive developmental disorders

Pam,

One response I can give off the bat is much of the treatment in question (ABA is the chief example) is not normally provided by doctors, but rather therapists who are not medical doctors. Those therapists might be under the supervision of a PhD or an MD.

The terminology is perplexing and I doubt we can bring much clarity. Pervasive Developmental Disorder a both a broader categorical term in the DSM and an actual diagnosis when a kid is not specifically labeled has having Autism, Asperger's Syndrome, Rett's Syndrome or some other "Disintegrative" disorder named in the DSM.

I found this statement about Indiana's law from an autism advocate that gets at the use of "neurological disorder". I have no idea if it's accurate, bit it sounds plausible. ASD stands for "Autism Spectrum Disorder" which looks to be synonymous with "Pervasive Developmental Disorder" when that term is used is the categorical sense and not as a specific diagnosis.

"The medical community has recognized for many years that ASDs are not "mental health disorders" or "emotional disorders;" however, many insurance companies were using these very classifications in order to severely restrict or completely deny coverage for services for ASDs. In 2001, the Indiana Legislature passed a law defining ASDs as neurological disorders. For insurance purposes, this means that an insurer with a contract in Indiana cannot classify ASDs as mental health or emotional disorders for any purpose or use mental heath exclusions or contract limitations to limit coverage.

Thanks,

Dennis

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Friday, January 19, 2007 10:51 AM
To: Rhodes, Dennis - DOA
Cc: Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-1553/P1 Insurance coverage of autism, Asperger's and pervasive developmental disorders

Following is the PDF version of draft 07-1553/P1.

Kahler, Pam

From: Rhodes, Dennis - DOA
Sent: Monday, January 22, 2007 2:11 PM
To: Kahler, Pam
Subject: RE: Autsim draft

Pam,

It's my understanding that the PDD Not Otherwise Classified refers to a specific diagnosis in the DSM IV and it is one of the 3, and only 3 (the other two being Autism and Asperger's) that are under the Autism Spectrum Disorders category. I think PDD-NOS is defined as much as Autism or Asperger's despite its name.

If I've misunderstood the concern let me know. I'm checking on the MA / PhD question.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Monday, January 22, 2007 11:57 AM
To: Rhodes, Dennis - DOA
Subject: RE: Autsim draft

This looks ok except for the pervasive developmental disorder part. There is no definition, so how would an insurer know if services to treat a condition or disorder must be covered or not? You would need to have a department define it by rule, leave it up to the insurer to decide - and you know which way that would turn out - or you could require an insurer to cover it if the therapist labeled it as such, but of course they want to get paid so they would call just about anything they are treating a pervasive developmental disorder..

From: Rhodes, Dennis - DOA
Sent: Monday, January 22, 2007 11:23 AM
To: Kahler, Pam
Subject: Autsim draft

Pam,

After being able to consult with DHFS, I think the best course of action is to make Autism Spectrum Disorders the overall classification and explicitly say that classification covers: 1) Autism Disorder; 2) Asperger's Syndrome; and 3) Pervasive Developmental Disorder Not Otherwise Specified.

On the 4 hours question, we do want the 4 hours but we want to specify that refers to 4 hours of service from therapists with PhD's or Masters Degrees. Apparently this is consistent with the level of coverage typically provided for other physical or mental health therapies.

Let me know if these requests sound out of bounds to you.

Thanks,

Dennis

Kahler, Pam

From: Rhodes, Dennis - DOA
Sent: Tuesday, January 23, 2007 2:41 PM
To: Kahler, Pam
Subject: RE: Lead Therapist/Senior Therapist

Pam,

Just heard your message...I agree that limiting it to social workers with a relevant training rather than anybody licensed under 457 is a good idea.

Thanks for digging into this.

Dennis

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Tuesday, January 23, 2007 1:46 PM
To: Rhodes, Dennis - DOA
Subject: RE: Lead Therapist/Senior Therapist

Dennis:

I think it would be a good idea, from an insurer's standpoint to pin down who can provide the therapy. I take it you want to include a psychiatrist licensed under ch. 448, a psychologist licensed under ch. 455, and a person licensed under ch. 457. I searched the stats., and it appears that those persons may be (independent, advanced practice, or clinical) social workers (who may be authorized to practice psychotherapy), marriage and family therapists, or professional counselors. I didn't find any reference to psychotherapist, per se. Let me know what you'd like.

Pam

-----Original Message-----

From: Rhodes, Dennis - DOA
Sent: Monday, January 22, 2007 4:58 PM
To: Kahler, Pam
Subject: FW: Lead Therapist/Senior Therapist

The following is in the stats now regarding credentials higher level staff must have to be provide services under the Autism Waiver. Do you think it would give the insurance companies some measure of security knowing they only had to deal with people having these degrees and/or experience?

-----Original Message-----

From: Wroblewski, Beth [mailto:WROBLBM@dhfs.state.wi.us]
Sent: Monday, January 22, 2007 4:01 PM
To: Rhodes, Dennis - DOA
Subject: Lead Therapist/Senior Therapist

Psychiatrist Chapter 448 Wisconsin Statute Psychologist Chapter 455 Wisconsin Statute
Psychotherapist Chapter 457 Wisconsin Statute

A provider who has these credentials and experience MUST lead the in-home intensive behavioral services team. The lead therapist must present written evidence of the following requirements, prior to the provision of services:

A doctoral degree in psychology, or a medical degree from an accredited educational institution; Actively licensed by a state board of examiners of psychiatry or is a licensed psychologist who is listed or eligible to be listed in the National Register of Health Care Providers in Psychology; Has completed 1500 hours of training or supervised experience in the application of behaviorally-based therapy models consistent with best practice and research on effectiveness, for children with congenital developmental

disorders, such as Autism, Asperger Syndrome or Pervasive Developmental Disorder (NOS); and At least two years of experience as an independent practitioner, and as a supervisor of less experienced clinicians.

Senior therapist:

The senior therapist must be a certified psychotherapy provider, with a master's degree in one of the behavioral sciences who has at least 400 hours of training or supervised experience in the use of behaviorally-based therapy models consistent with best practice and research on effectiveness for children with congenital developmental disorders, such as Autism, Asperger Syndrome or Pervasive Developmental Disorder (NOS); in addition to, or as part of their 3000 hours of training/supervision; OR A bachelor's degree in a human services discipline and at least 2,000 hours of training or supervised experience in the use of behaviorally-based therapy models consistent with best practice and research on effectiveness for children with congenital developmental disorders such as, Autism, Asperger's Syndrome or Pervasive Developmental Disorder (NOS).

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1553/21
PJK:wj:rs
P2
+ jld
run is run

DOA:.....Rhodes, BB0387 - Insurance coverage of autism, Asperger's and pervasive developmental disorders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

(w. 1-23)

do not get cut

1 AN ACT ...; relating to: the budget.

governmental and school district health

Analysis by the Legislative Reference Bureau

INSURANCE

Insert A

This bill requires health insurance policies and governmental self-insured plans to cover the cost of treatment for pervasive developmental disorders that is prescribed for an insured by the insured's treating physician in accordance with a treatment plan. "Pervasive developmental disorder" is defined in the bill as a neurological disorder as defined in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association, and includes autism and Asperger's syndrome. The coverage requirement applies to both individual and group health insurance policies and plans, including defined network plans and cooperative sickness care associations; to health care plans offered by the state to its employees, including a self-insured plan; and to self-insured health plans of counties, cities, towns, villages, and school districts. The requirement specifically does not apply to limited-scope benefit plans, medicare replacement or supplement policies, long-term care policies, or policies covering only certain specified diseases. The coverage may be subject to any limitations or exclusions or cost-sharing provisions that apply generally under the policy or plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.51 (8) [✓] of the statutes is amended to read:

2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
4 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
5 (6), 632.895 (5m) and (8) to ~~(14)~~ (15), and 632.896.

6 **SECTION 2.** 40.51 (8m) [✓] of the statutes is amended to read:

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(14)~~ (15).

10 **SECTION 3.** 66.0137 (4) [✓] of the statutes is amended to read:

11 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
12 a village provides health care benefits under its home rule power, or if a town
13 provides health care benefits, to its officers and employees on a self-insured basis,
14 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
15 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), (5),
16 and (6), 632.895 (9) to ~~(14)~~ (15), 632.896, and 767.513 (4).

17 **SECTION 4.** 111.91 (2) (n) [✓] of the statutes is amended to read:

18 111.91 (2) (n) The provision to employees of the health insurance coverage
19 required under s. 632.895 (11) to ~~(14)~~ (15).

20 **SECTION 5.** 120.13 (2) (g) [✓] of the statutes is amended to read:

1 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
2 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
3 632.85, 632.853, 632.855, 632.87 (4), (5), and (6), 632.895 (9) to (14) (15), 632.896, and
4 767.513 (4).

5 SECTION 6. 185.981 (4t) of the statutes is amended to read:

6 185.981 (4t) A sickness care plan operated by a cooperative association is
7 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
8 632.853, 632.855, 632.87 (2m), (3), (4), (5), and (6), 632.895 (10) to (14) (15), and
9 632.897 (10) and chs. 149 and 155.

10 SECTION 7. 185.983 (1) (intro.) of the statutes is amended to read:

11 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
12 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
13 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
14 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
15 632.855, 632.87 (2m), (3), (4), (5), and (6), 632.895 (5) and (9) to (14) (15), 632.896, and
16 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
17 shall:

18 SECTION 8. 609.87 of the statutes is created to read:

19 **609.87 Coverage of treatment for pervasive developmental disorders.**

20 Defined network plans are subject to s. 632.895 (15).

21 SECTION 9. 632.895 (15) of the statutes is created to read:

22 632.895 (15) TREATMENT FOR PERSISTIVE DEVELOPMENTAL DISORDERS. (a) In this
23 subsection, "pervasive developmental disorder" means a neurological condition,
24 including autism and Asperger's syndrome, as defined in the most recent edition of

③ autism spectrum

Insert 3-23 ✓

✓ autism spectrum (CS) ←

1 the Diagnostic and Statistical Manual of Mental Disorders of the American
2 Psychiatric Association.

3 (b) Except as provided in par. (d), every disability insurance policy, and every
4 self-insured health plan of the state or a county, city, town, village, or school district,

5 that provides coverage of physician's services shall provide coverage of treatment for
6 a pervasive developmental disorder that is prescribed for an insured by the insured's
7 treating physician in accordance with a treatment plan, including applied
8 behavioral analysis treatment.

9 (c) The coverage required under par. (b) may be subject to any limitations,
10 exclusions, and cost-sharing provisions that apply generally under the disability
11 insurance policy or self-insured health plan.

12 (d) This subsection does not apply to any of the following:

13 1. A disability insurance policy that covers only certain specified diseases.

14 2. A health care plan offered by a limited service health organization, as defined
15 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
16 a defined network plan, as defined in s. 609.01 (1b).

17 3. A long-term care insurance policy.

18 4. A medicare replacement policy or a medicare supplement policy.

19 **SECTION 9325. Initial applicability; Insurance.**

20 (1) COVERAGE OF TREATMENT FOR ~~PERVASIVE DEVELOPMENTAL~~ DISORDERS. The
21 treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
22 185.981 (4t), 185.983 (1) (intro.), 609.87, and 632.895 (15) of the statutes first applies
23 to all of the following:

✓ CS
Autism spectrum

→ 1. Subject to subd. 2. ✓ and
NO

Insert 4-4

3
4

20

1 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
2 that are issued or renewed, and self-insured health plans that are established,
3 extended, modified, or renewed, on the effective date of this paragraph.

4 (b) Disability insurance policies covering employees who are affected by a
5 collective bargaining agreement containing provisions inconsistent with this act
6 that are issued or renewed on the earlier of the following:

- 7 1. The day on which the collective bargaining agreement expires.
- 8 2. The day on which the collective bargaining agreement is extended, modified,
9 or renewed.

10 (c) Self-insured health plans covering employees who are affected by a
11 collective bargaining agreement containing provisions inconsistent with this act
12 that are established, extended, modified, or renewed on the earlier of the following:

- 13 1. The day on which the collective bargaining agreement expires.
- 14 2. The day on which the collective bargaining agreement is extended, modified,
15 or renewed.

16 **SECTION 9425. Effective dates; Insurance.**

17 (1) COVERAGE OF TREATMENT FOR ~~PERVASIVE DEVELOPMENTAL~~ DISORDERS. The
18 treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
19 185.981 (4t), 185.983 (1) (intro.), 609.87, and 632.895 (15) of the statutes and SECTION
20 9325 (1) of this act take effect on the first day of the 7th month beginning after
21 publication.

22 (END)

governmental or school district

✓ *CS*
autism spectrum

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1553/P2ins
PJK:wj:rs

INSERT A

WDF an insured for autism, Asperger's syndrome, and pervasive developmental disorder not otherwise specified if the treatment is provided by a psychiatrist, a psychologist, or a social worker who is certified or licensed to practice psychotherapy. A policy or plan is not required to cover more than four hours of treatment per month, however. *

(END OF INSERT A)

INSERT 3-23

WDF 1 "autism spectrum disorder" means any of the following:

- 2 1. Autism disorder.
- 3 2. Asperger's syndrome.
- 4 3. Pervasive developmental disorder not otherwise specified.

(END OF INSERT 3-23)

INSERT 4-4

WDF 5 shall provide coverage for an insured of treatment for an autism spectrum
6 disorder if the treatment is provided by any of the following:

- 7 a. A psychiatrist, as defined in s. 146.34 (1) (h).
- 8 b. A psychologist, as defined in s. 146.34 (1) (i).
- 9 c. A social worker, as defined in s. 252.15 (1) (er), who is certified or licensed
10 to practice psychotherapy, as defined in s. 457.01 (8m).
- 11 2. A disability insurance policy or self-insured health plan is not required to
12 cover the cost of more than 4 hours per month of the treatment specified in subd. 1.

(END OF INSERT 4-4)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1553/P2
PJK:wlj&jld:pg

DOA:.....Rhodes, BB0387 - Insurance coverage of autism, Asperger's and
pervasive developmental disorders

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

INSURANCE

This bill requires health insurance policies and self-insured governmental and school district health plans to cover the cost of treatment for an insured for autism, Asperger's syndrome, and pervasive developmental disorder not otherwise specified if the treatment is provided by a psychiatrist, a psychologist, or a social worker who is certified or licensed to practice psychotherapy. A policy or plan is not required to cover more than four hours of treatment per month, however. The coverage requirement applies to both individual and group health insurance policies and plans, including defined network plans and cooperative sickness care associations; to health care plans offered by the state to its employees, including a self-insured plan; and to self-insured health plans of counties, cities, towns, villages, and school districts. The requirement specifically does not apply to limited-scope benefit plans, medicare replacement or supplement policies, long-term care policies, or policies covering only certain specified diseases. The coverage may be subject to any limitations or exclusions or cost-sharing provisions that apply generally under the policy or plan.

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9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(14)~~ (15).

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13 provides health care benefits, to its officers and employees on a self-insured basis,
14 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
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2 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
3 632.85, 632.853, 632.855, 632.87 (4), (5), and (6), 632.895 (9) to ~~(14)~~ (15), 632.896, and
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6 185.981 (4t) A sickness care plan operated by a cooperative association is
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8 632.853, 632.855, 632.87 (2m), (3), (4), (5), and (6), 632.895 (10) to ~~(14)~~ (15), and
9 632.897 (10) and chs. 149 and 155.

10 **SECTION 7.** 185.983 (1) (intro.) of the statutes is amended to read:

11 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
12 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
13 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
14 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
15 632.855, 632.87 (2m), (3), (4), (5), and (6), 632.895 (5) and (9) to ~~(14)~~ (15), 632.896, and
16 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
17 shall:

18 **SECTION 8.** 609.87 of the statutes is created to read:

19 **609.87 Coverage of treatment for autism spectrum disorders.** Defined
20 network plans are subject to s. 632.895 (15).

21 **SECTION 9.** 632.895 (15) of the statutes is created to read:

22 632.895 (15) TREATMENT FOR AUTISM SPECTRUM DISORDERS. (a) In this subsection,
23 “autism spectrum disorder” means any of the following:

- 24 1. Autism disorder.
- 25 2. Asperger’s syndrome.

1 3. Pervasive developmental disorder not otherwise specified.

2 (b) 1. Subject to subd. 2., and except as provided in par. (d), every disability
3 insurance policy, and every self-insured health plan of the state or a county, city,
4 town, village, or school district, shall provide coverage for an insured of treatment
5 for an autism spectrum disorder if the treatment is provided by any of the following:

6 a. A psychiatrist, as defined in s. 146.34 (1) (h).

7 b. A psychologist, as defined in s. 146.34 (1) (i).

8 c. A social worker, as defined in s. 252.15 (1) (er), who is certified or licensed
9 to practice psychotherapy, as defined in s. 457.01 (8m).

10 2. A disability insurance policy or self-insured health plan is not required to
11 cover the cost of more than 4 hours per month of the treatment specified in subd. 1.

12 (c) The coverage required under par. (b) may be subject to any limitations,
13 exclusions, and cost-sharing provisions that apply generally under the disability
14 insurance policy or self-insured health plan.

15 (d) This subsection does not apply to any of the following:

16 1. A disability insurance policy that covers only certain specified diseases.

17 2. A health care plan offered by a limited service health organization, as defined
18 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
19 a defined network plan, as defined in s. 609.01 (1b).

20 3. A long-term care insurance policy.

21 4. A medicare replacement policy or a medicare supplement policy.

22 **SECTION 9325. Initial applicability; Insurance.**

23 (1) COVERAGE OF TREATMENT FOR AUTISM SPECTRUM DISORDERS. The treatment of
24 sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g), 185.981 (4t),

1 185.983 (1) (intro.), 609.87, and 632.895 (15) of the statutes first applies to all of the
2 following:

3 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
4 that are issued or renewed, and self-insured governmental or school district health
5 plans that are established, extended, modified, or renewed, on the effective date of
6 this paragraph.

7 (b) Disability insurance policies covering employees who are affected by a
8 collective bargaining agreement containing provisions inconsistent with this act
9 that are issued or renewed on the earlier of the following:

- 10 1. The day on which the collective bargaining agreement expires.
11 2. The day on which the collective bargaining agreement is extended, modified,
12 or renewed.

13 (c) Self-insured governmental or school district health plans covering
14 employees who are affected by a collective bargaining agreement containing
15 provisions inconsistent with this act that are established, extended, modified, or
16 renewed on the earlier of the following:

- 17 1. The day on which the collective bargaining agreement expires.
18 2. The day on which the collective bargaining agreement is extended, modified,
19 or renewed.

20 **SECTION 9425. Effective dates; Insurance.**

21 (1) COVERAGE OF TREATMENT FOR AUTISM SPECTRUM DISORDERS. The treatment of
22 sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g), 185.981 (4t),
23 185.983 (1) (intro.), 609.87, and 632.895 (15) of the statutes and SECTION 9325 (1) of
24 this act take effect on the first day of the 7th month beginning after publication.

25

(END)