



Wisconsin Office of the
COMMISSIONER
OF INSURANCE

Wisconsin Autism Insurance Mandate

Symposia Series On Early Access to Autism Treatment

Issues Raised in Prior Presentations

- Gap in coverage under the current rule for self-insured employer sponsored coverage.
- Only domestic insurers need to comply with the mandate.
- People cannot afford the diagnostic tests for Autism.
- Travel not covered for providers so families are having to travel great distances for services.
- Evidence-based practices is not clearly defined and permits discretion by the insurers.
- Parent participation requirements should allow more flexibility.
- Minimum hours less than the stated requirement in the statute.



Time Capsule - 2009

- Arrived on the heels of the Mental Health Parity and Addiction Equity Act of 2008 that was generally effective for plan years beginning after October 3, 2009.
- Preceded the PPACA Patient Protection and Affordable Care Act of 2010. Under the PPACA beginning in 2014 QHP are prohibited from imposing pre-existing condition limitations and cover preventive screening including screening for autism at 18 and 24 months.
- When enacted, there was no certification process in the state for Behavior Analysts using the science of Applied Behavior Analysis.



The Autism Insurance Mandate

- Every disability insurance policy, and every self-insured health plan of the state or a county, city, town, village, or school district, shall provide coverage for an insured of treatment for the mental health condition of autism spectrum disorder if the treatment is prescribed by a physician and provided by those qualified to provide intensive-level services or nonintensive-level services.
- "Intensive-level services" means evidence-based behavioral therapy that is designed to help an individual with autism spectrum disorder overcome the cognitive, social, and behavioral deficits associated with that disorder.



The Autism Insurance Mandate

- “Nonintensive-level services” means evidence-based therapy that occurs after the completion of treatment with intensive-level services and that is designed to sustain and maximize gains made during treatment with intensive-level services or, for an individual who has not and will not receive intensive-level services, evidence-based therapy that will improve the individual's condition.
- The coverage required may be subject to deductibles, coinsurance, or copayments that generally apply to other conditions covered under the policy or plan. The coverage may not be subject to limitations or exclusions, including limitations on the number of treatment visits.



	Intensive-Level Services	Nonintensive-Level Services
Annual Benefit*	At least \$50,000 for services provided	At least \$25,000 for services provided
Age Requirement	Must begin after 2 years old Must begin before 9 years old	None
Time Limit	Up to 4 years of cumulative years	No limit
Minimum Treatment Hours	On average, 20 hours per week	None

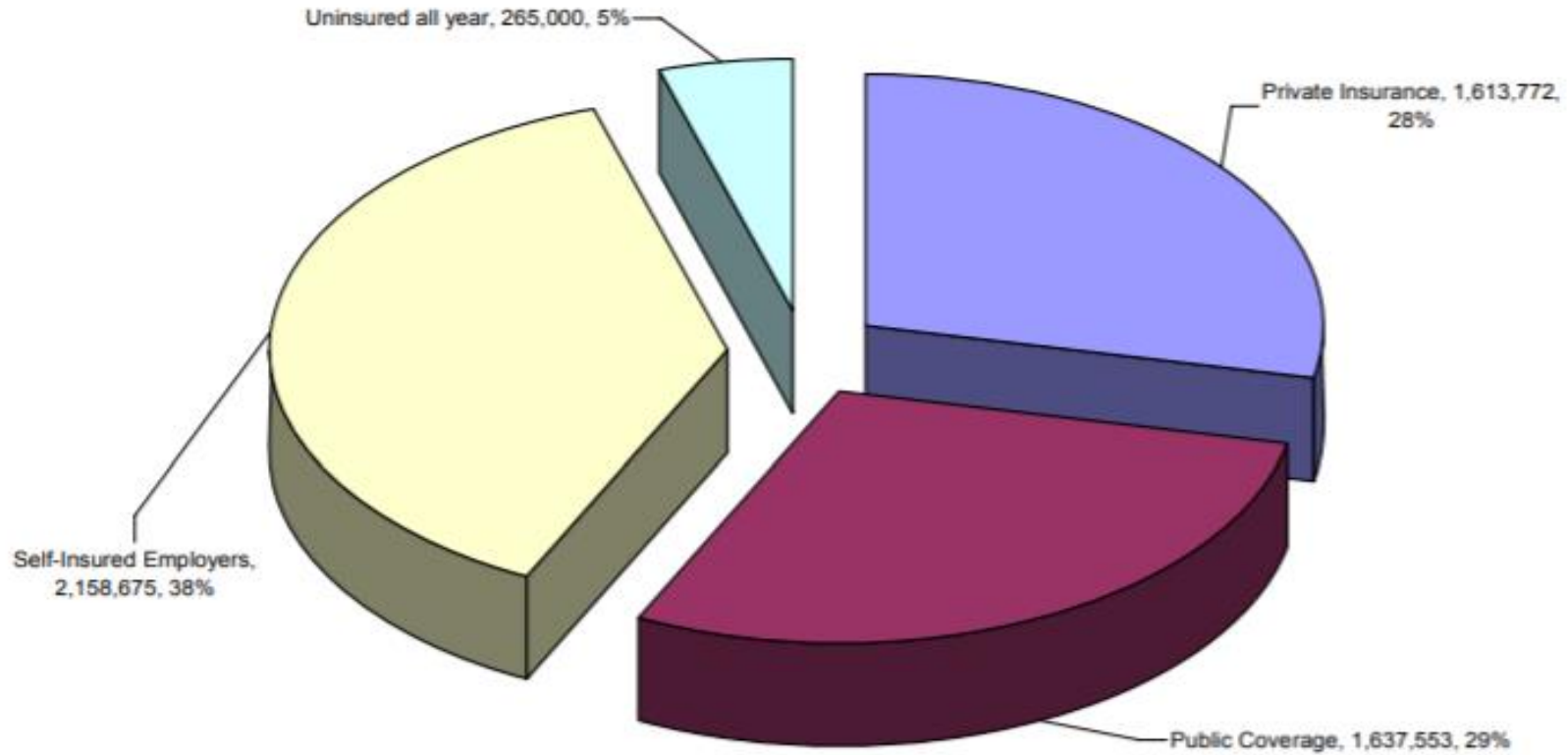
*Annually adjusted by CPI and posted to the OCI website.

The Autism Insurance Mandate

- The statute does NOT apply to:
 - A self-funded health benefit plan from an employer that's subject to federal jurisdiction. [ERISA]
 - Group health plans issued in another state covering employees in Wisconsin, unless at least 25% of the employees covered under the plan reside in Wisconsin.

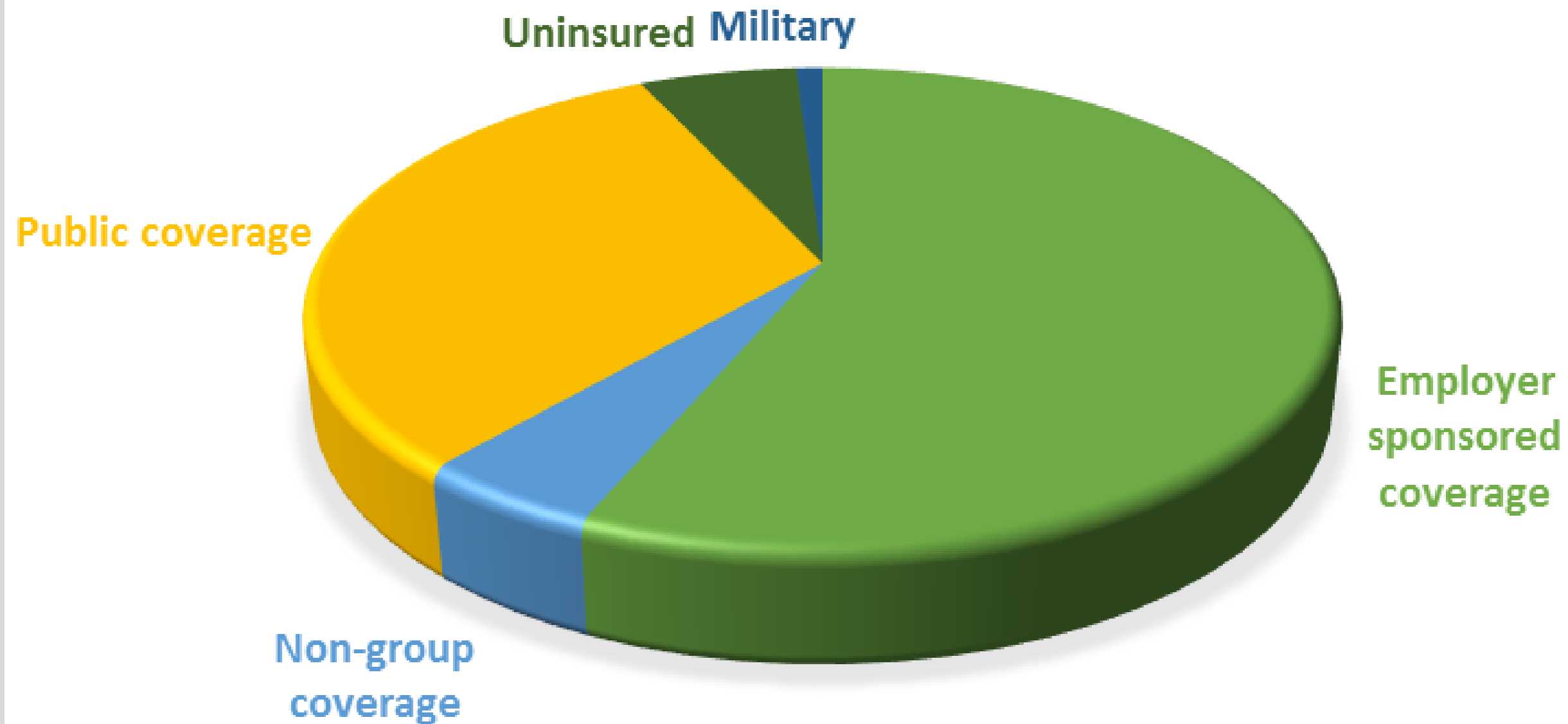


Wisconsin Health Coverage 2007



■ Private Insurance ■ Public Coverage ■ Self-Insured Employers ■ Uninsured all year

WISCONSIN HEALTH COVERAGE 2018



The Autism Insurance Mandate

- 2009 Wis. Act 28 the Commissioner was required pursuant to s. 632.895 (12m), Wis. Stat., to define four terms: “intensive-level services,” “nonintensive-level services,” “qualified,” and “paraprofessional” for purposes of providing services under this subsection. The statute further authorized the Commissioner to promulgate rules governing the interpretation or administration of this subsection.



The Autism Working Group

- Senator Judy Robson (Author of SB 3)
- Senator Tim Carpenter (Chair Sen Comm on Public Health, Senior Issues, Long Term Care and Job Creation)
- Representative Kim Hixson (Author AB 15)
- Parents and Autism Organizations
- Insurers and Insurance Associations
- Autism Providers
- DHS Representatives



The Administrative Rule

- The Waiver Program was used as a baseline to discuss the implementation of the new mandate. Current literature on autism spectrum disorders and information from other states was presented to the Autism Working Group for review and consideration.
- Research and literature in the realm of autism treatments was rapidly evolving, this led the Autism Working Group to recommend defining terms used within the statutes including: “evidence-based” and “behavioral” rather than creating a list of approved therapies that could readily become outdated



The Administrative Rule

- The rule also addressed several administrative concerns. It allows insurers to deny claims they believe to be fraudulent, to exclude travel time from the required hours of treatment and allocated dollars for treatment and permits dispute resolution through independent review organizations.
- Ensure treatments are evidence-based. Great deal of discussion and time was spent in the Autism Work Group to develop the definitions.
- To give the rule a longer view for its application – the role for research advancements and what would qualify for efficacious treatment or efficacious strategy was discussed at length. Reliance on Waisman Center, National Organizations, Existing laws and regulations.



The Administrative Rule

- “Efficacious treatment” or “efficacious strategy” means treatment or strategies designed to address cognitive, social or behavioral conditions associated with autism spectrum disorders; to sustain and maximize gains made during intensive-level services; or to improve an individual with autism spectrum disorder's condition.
- “Evidence-based therapy” means therapy, service and treatment that is based upon medical and scientific evidence as described at s. [632.835 \(3m\) \(b\) 1.](#), [2. \(intro.\)](#) and [a.](#), Stats., and s. [Ins 18.10 \(4\)](#), is determined to be an efficacious treatment or strategy and is prescribed to improve the insured's condition or to achieve social, cognitive, communicative, self-care or behavioral goals that are clearly defined within the insured's treatment plan.



The Administrative Rule

- Intensive Level –majority of services provided to the insured when the parent or legal guardian is present and engaged
- Location of Services
- Verified Diagnosis
- Forty-eight cumulative months of intensive treatment
- Verification of Service providers:
 - All service providers using paraprofessional to verify credential
 - Certified outpatient mental health clinics to verify credentials
 - Grandfathered in existing providers to allow transition, contracting and certifications

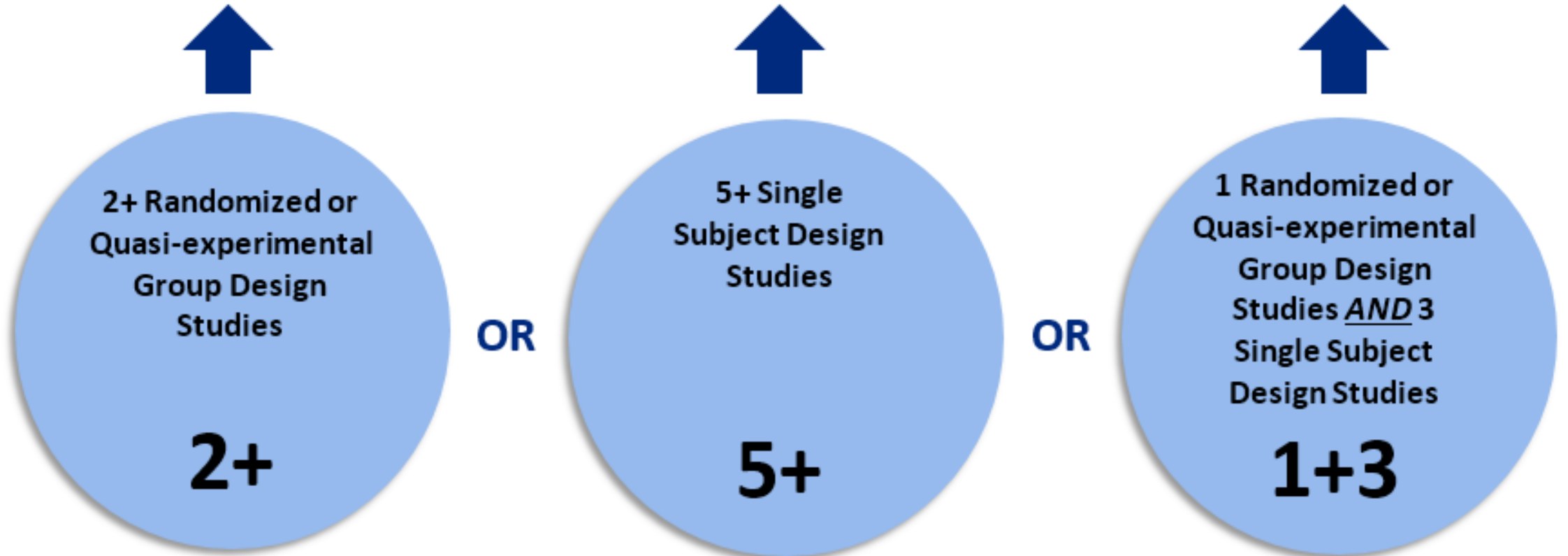


The Administrative Rule

- Who are qualified to provide services to residents of Wisconsin diagnosed with Autism?
- Why is there requirement for parents or caregivers to be present was discussed at length and determined necessary for intensive-level therapy. As well as duration of minimum time requirements.
- By the time OCI was drafting the permanent rule the Legislature enacted 2009 Wis. Act 282 relating to the licensure and regulation of behavior analysts, insurance coverage of the services of behavior analysts for autism treatment.



Criteria for Qualification as an Evidence-based Practice



OCI Resources

- <https://oci.wi.gov/Documents/Consumers/PI-234.pdf>
Frequently asked questions regarding the Autism Mandate.
- <https://oci.wi.gov/Documents/Regulation/0336fn10.pdf>
Administrative rule.
- <https://oci.wi.gov/Pages/Regulation/Bulletin20101123IRO.aspx>
Bulletin Issued November 23, 2010, Grievance and Independent Review Procedures including Autism grievances or IRO requests related to diagnosis or level of services for evidence-based treatment.
- <https://oci.wi.gov/documents/consumers/pi-019.pdf>
Consumer publication on Mandated Benefits in Health Insurance in Wisconsin.

