



AUTISM SPEAKS™
It's time to listen.

The Autism Treatment Acceleration Act (ATAA) Insurance Provision (S. 819, Section 12): Potential Autism Community Issues and Autism Speaks Responses

POTENTIAL COMMUNITY ISSUE 1: The insurance provision of the ATAA is too narrow. While Applied Behavior Analysis (ABA) therapy is included, the provision excludes other one-on-one interventions (e.g. floor time, DIR, music therapy, therapeutic horseback riding).

AUTISM SPEAKS RESPONSE: The ATAA seeks to provide coverage for medically necessary, evidence-based autism therapies. ABA and other early intensive behavioral interventions are examples of therapies that are widely prescribed by medical professionals for the treatment of autism and are commonly used by families in the autism community. The efficacy of ABA and other early intensive behavioral interventions has been recognized by numerous prominent entities and has been substantiated with a history of research and study. For example:

- The 2001 U.S. Surgeon General's Report on Mental Health states, "Among the many methods available for treatment and education of people with autism, applied behavior analysis (ABA) has become widely accepted as an effective treatment. Thirty years of research demonstrated the efficacy of applied behavioral methods in reducing inappropriate behavior and in increasing communication, learning, and appropriate social behavior."
- The National Institute of Child Health and Human Development lists Applied Behavior Analysis among the recommended treatment methods for Autism Spectrum Disorders.
- The National Institute of Mental Health reports, "The basic research done by Ivar Lovaas and his colleagues at the University of California, Los Angeles, calling for an intensive, one-on-one child-teacher interaction for 40 hours a week, laid a foundation for other educators and researchers in the search for further effective early interventions to help those with ASD attain their potential. The goal of behavioral management is to reinforce desirable behaviors and reduce undesirable ones."

The ATAA bill specifies coverage for evidence-based, medically necessary autism therapies, like ABA. Any therapy that meets these criteria would be covered by this provision. The language of the insurance provision leaves the bill open to coverage of emerging evidence-based therapies. Those therapies that currently do not meet the hurdle of evidence-based and medically necessary, once substantiated, would be included under this provision. Specifically, regarding DIR:

- The American Academy of Pediatrics (AAP) reports in their “Managing Autism Spectrum Disorders” report, “Published evidence of the efficacy of the DIR model is limited to an unblended review of case records (with significant methodological flaws, including inadequate documentation of the intervention, comparison to a suboptimal control group, and lack of documentation of treatment integrity and how outcomes were assessed by informal procedures⁵⁵) and a descriptive follow-up study of a small subset (8%) of the original group of patients.”

POTENTIAL COMMUNITY ISSUE 2: The insurance provision of the ATAA does not extend coverage to federal government civilian employees.

AUTISM SPEAKS RESPONSE: According to a Congressional Research Service Report on the Health Insurance Portability and Accountability Act (HIPAA) of 1996, while there are no specific references in HIPAA or the subsequent benefits mandates that apply the requirements specifically to FEHBP, the plans provided by the FEHBP program are presumed to fall under the HIPAA definition of “group health plan.” As a result, the federal Office of Personnel Management, which administers the FEHBP program, complies with the HIPAA requirements. Therefore, if enacted, the ATAA would likely apply to federal government civilian employees.

POTENTIAL COMMUNITY ISSUE 3: The insurance provision of the ATAA does not extend coverage to non-federal government employees (e.g. state government employees, local government employees, school district employees, tribal).

AUTISM SPEAKS RESPONSE: State, local and tribal government health plans would be covered by the ATAA. However, a state, local, or tribal government employer that provided its employees with self-funded health plan coverage -- coverage under which claims are paid with the employer's own funds -- would be able to opt out of the ATAA's requirements, just as self-funded state, local and tribal government health plans can currently opt out of mental health parity and other federal insurance mandates. Roughly two-thirds of employees of state, local, and tribal governments are enrolled in self-funded health insurance plans. Many of these employees are in states that have passed autism insurance legislation, which may make opt-outs less likely.

POTENTIAL COMMUNITY ISSUE 4: The insurance provision of the ATAA should not include ABA, because ABA therapy uses coercive and aversive methods.

AUTISM SPEAKS RESPONSE: ABA does not use methods of coercion or aversion to change behavior. Instead, ABA is built on a theory of positive reinforcement to encourage correct behaviors. Certification as a Board Certified Behavior Analyst (BCBA) precludes the use of aversive techniques.

POTENTIAL COMMUNITY ISSUE 5: The insurance provision of the ATAA includes ABA therapy, which is an educational, not medical, intervention. ABA should be provided by school districts and administered in an educational, rather than clinical, setting.

AUTISM SPEAKS RESPONSE: Autism is a medical condition. It is diagnosed by a medical doctor, not a school principal. ATAA will give families access to the medically necessary, evidence-based autism treatments that their children need. Speech therapy, occupational therapy, and ABA therapy are all treatments that are prescribed by licensed physicians or licensed psychologists for the treatment of autism. The obligation of the educational system is not to treat a disorder, but to accommodate the child with a disorder and facilitate their ability to learn in an educational environment.

POTENTIAL COMMUNITY ISSUE 6: The insurance provision of the ATAA is limited to coverage of ABA therapy, speech therapy, occupational therapy and pharmaceutical interventions, but children’s co-morbid conditions may still not receive coverage because of the autism diagnosis.

AUTISM SPEAKS RESPONSE: Children with autism often have underlying co-morbid health issues, which are biomedical in their origin, including gastrointestinal issues, sleep disorders, and allergies. In the past, insurance companies have refused to cover the treatment of such diseases, illnesses, or disorders based on the fact that the child has an autism diagnosis and not based on the medical necessity of treating the co-morbid condition itself. Federal autism insurance reform will remove the stigma of the autism spectrum disorder diagnosis. Children will no longer be denied appropriate coverage for their co-morbid health issues and will be free to seek out medically necessary, evidence-based care for these conditions.

POTENTIAL COMMUNITY ISSUE 7: The insurance provision of the ATAA does not provide a definition of “medically necessary.”

AUTISM SPEAKS RESPONSE: A definition of “medically necessary” is not specified in the insurance provision of the ATAA. However, the bill includes language that specifies that an insurance company shall not deny coverage on the basis that such coverage will not develop skills or functioning, maintain skills or functioning, restore skills or functioning, or prevent the loss of skills of functioning. This language speaks to how an insurance company can and cannot make its determination of medical necessity in the case of autism therapies for an insured with an autism diagnosis.

The goal of the insurance provision of the ATAA is to ensure that individuals with autism receive the comprehensive health insurance they are currently excluded from receiving due to their autism diagnosis. This effort will require strong enforcement to make sure that the evidence-based care prescribed by medical professionals is delivered.

POTENTIAL COMMUNITY ISSUE 8: The insurance provision of the ATAA extends insurance coverage to an individual *only* if therapies are obtained at an Autism Care Center as defined in Section 5 of the ATAA.

AUTISM SPEAKS RESPONSE: This is not true. This requirement is not part of the insurance provision of the ATAA. The insurance provision of the ATAA calls for insurance coverage of autism therapies provided by a physician, psychiatrist, psychologist, or other autism service provider, but does not specify that the care must be obtained at an Autism Care Center.