

March 23, 2010

Actuarial Cost Estimate:
New York Senate Bill S7000A
and Assembly Bill A10372

ACTS to amend the insurance law
and the public health law, in relation
to coverage for the screening,
diagnosis and treatment of autism
spectrum disorder

OLIVER WYMAN

Prepared By:

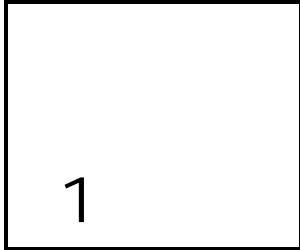
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Contents

1. Executive Summary	2
2. Background.....	4
3. Scope and Limitations.....	5
4. Description of Key S7000A / A10372 Provisions and their Impact on Covered Benefits	6
5. Modeling Methodology	8
▪ Modeling Perspective.....	8
▪ General Modeling Process	9
6. Summary of Key Assumptions	11
▪ Treated Prevalence and Age at Diagnosis	11
▪ ABA Program Utilization and Cost	13
▪ Other (than ABA) Medical Costs	15
▪ Administrative Costs.....	16
▪ New York Market Data.....	16
7. Cost Estimates.....	17
▪ Long-Term Cost Estimates - “Middle” Cost Scenario	17
▪ Scenario Estimates	18
▪ Short-Term Cost Estimates by Scenario	18
8. Cost – Benefit Analysis for ASD Treatments.....	19
▪ Societal Costs of Autism- Ganz Report	19
▪ Cost Savings to State and Local Governments	20

Appendices

Cost Assumptions – Illustrative Exhibits and S7000A / A10372 Text	22
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Executive Summary

Oliver Wyman Actuarial Consulting, Inc. (Oliver Wyman or we) has been engaged by Autism Speaks to develop a cost model in order to analyze and estimate the impact of insurance benefits for autism spectrum disorders (ASD) mandated by New York Senate Bill S7000A / Assembly Bill A10372 (S7000A / A10372). The two Bills are identical. The most significant treatment likely mandated by S7000A / A10372 is applied behavior analysis, or ABA which we believe would be covered as an evidence-based and clinically proven treatment that would account for a large portion of the additional costs under S7000A / A10372. The key provisions of S7000A / A10372 are explained further in Section 4 of this report.

Our analysis involved developing a robust model that reflects the likely behavior of consumers, providers and insurers of ABA services and includes New York demographic and insurance market information. Key assumptions including the treated prevalence of ASD, the age of diagnosis, ABA program utilization by age, ABA annual costs by age, and additional other (i.e. not ABA) medical costs, as well as the modeling methodology are explained in detail in Sections 5 and 6 of this report and summarized through graphs in the Appendix.

Our analysis included scenario testing to develop cost estimates under a range of assumptions. Our “Middle” estimate is that, in the long-term, costs would increase by about 0.53% of premiums and premiums would increase about 0.63% should S7000A / A10372 be enacted. We expect that premium increases would be lower in the years immediately following the passage of a law consistent with the provisions of S7000A / A10372, with first year cost increases in the range of 0.14% to 0.61% percent of premiums, increasing to 0.42% to 0.92% after five years based on our ultimate “Low” and “High” estimates. Our expectation of lower first year costs is based on experiences in other states that have seen low initial costs when ASD benefits are mandated. These lower costs can be expected due to the lags typically seen in accessing new benefits and the limited supply of ABA providers.

The estimated cost increases for our “Middle” scenario along with some statistics for the individual, small, and large group markets are shown in the table below; we would expect that costs for any government plans would be similar to those estimated for large groups.

Long-Term Cost Estimates - “Middle” Cost Scenario

	Market			
	Individual	Small Group	Large Group	All
Covered Persons	669,000	2,011,000	3,227,000	5,907,000
Average Premium per Person	\$5,000	\$4,500	\$4,200	\$4,393
Annual Mandate Claim Cost per Covered Person	\$23.50	\$23.50	\$23.50	\$23.50
Claim Cost as a Percentage of Premium	0.47%	0.52%	0.56%	0.53%
Estimated Premium Increase with Admin @ 15%	\$27.60	\$27.60	\$27.60	\$27.60
Premium Increase as a Percentage of Premium	0.55%	0.61%	0.66%	0.63%

For our scenario testing we varied the assumptions that drive cost estimates. The assumptions under the “Low”, “Middle”, and “High” scenarios and premium increase estimates are summarized in the table below.

Scenario	% Diagnosed Under Age 6 Starting ABA	Avg. Annual ABA Program Cost	Avg. Annual non-ABA Cost (22 & under)	Annual Premium Increase per Covered Person	Premium Increase (% of Premium)
Low	40.0%	\$45,000	\$2,250	\$18.20	0.42%
Middle	50.0%	\$55,000	\$3,375	\$27.60	0.63%
High	66.7%	\$64,183	\$4,500	\$40.40	0.92%

While this analysis focused primarily on estimating the insured costs of mandated medical benefits, in Section 8 we summarize information related to the lifetime costs of ASD which include the costs associated with medical services, education, custodial care, and the lost productivity and wages of individuals affected by ASD, as well as their family caregivers. We also outline the potential savings to government financed education and medical programs associated with effective ASD treatments based on several studies.

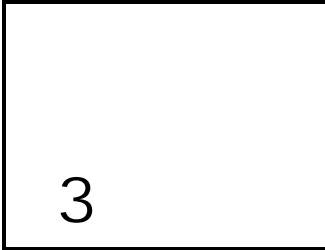
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Background

Oliver Wyman Actuarial Consulting, Inc. (Oliver Wyman or we) has been engaged by Autism Speaks to develop a cost model in order to analyze and estimate the impact of mandated insurance benefits for autism spectrum disorders (ASD) on insurance premiums. As part of this work, Oliver Wyman has developed a range of independent estimates of the impact on insurance premiums of the benefits mandated by New York S7000A / A10372, which provides coverage for the diagnosis and treatment of autism spectrum disorders.

Oliver Wyman is a part of the Marsh & McLennan (MMC) family of companies. With over 60 members of the American Academy of Actuaries, Oliver Wyman is one of the largest actuarial practices in North America. Oliver Wyman’s health practice, which has thirteen credentialed actuaries, advises insurers, regulators, governments, interest groups, and others.

This report, along with its supporting analysis, was developed by Marc Lambright, FSA, MAAA, a Principal and consulting health actuary in Oliver Wyman’s Philadelphia office. Marc is a Fellow of the Society of Actuaries and a member of the American Academy of Actuaries and is professionally qualified to analyze the cost impact of S7000A / A10372 and provide the estimates shown in this report. As part of Oliver Wyman’s quality assurance process, the underlying analysis and this report were independently peer reviewed by another credentialed Oliver Wyman actuary.



Scope and Limitations

The intent of this analysis is to provide a reasonable range of estimates for the insured costs of the mandated ASD benefits provided for in S7000A / A10372 and the associated premium impact on the individual, small group, and large group markets affected by S7000A / A10372. This analysis also identifies and partially quantifies identified offsetting cost savings associated with successful ASD treatment.

We note that cost estimates for autism mandates have varied widely state to state based on differences in the state-specific mandates and the methods and assumptions used in estimating costs, though typically independent estimates show premium increases due to mandated autism benefits of less than 1%. A March 2009 report of The Council for Affordable Health Insurance (CAHI) states: “CAHI’s actuarial working team estimates that an autism mandate increases the cost of health insurance by about 1 percent.”¹ The reason for this variability is that the largest component of the increase in costs under S7000A / A10372 mandated ASD benefits is for behavioral therapy, including applied behavior analysis (ABA), which is almost universally excluded from health coverage, and therefore a very limited amount of insured data exists for use in developing credible utilization and unit cost estimates for ABA.

The reader is further cautioned that the ultimate cost of covering ABA benefits is uncertain; however, this analysis reflects the likely behavior of consumers, providers and insurers of ABA services in developing the assumptions underlying the cost estimates. Likewise, the additional costs for mandated medical services other than ABA are uncertain. Insurance policies often cover some services for children diagnosed with an ASD, although the mandate could cause the insured costs for certain services to increase because ASD exclusions or limitations are common, and certain services that may have been denied or terminated following utilization review might be covered due to the mandate.

¹ The Council for Affordable Health Insurance. “The Growing Trend Towards Autism Coverage.” March 2009.



Description of Key S7000A / A10372 Provisions and their Impact on Covered Benefits

Insurance Markets Covered by Mandate

Each bill amends sections 3216, 3221, and 4303 of the insurance law. Senate Bill S7000 / Assembly Bill A10372 therefore applies to the individual, small group (2-50 employees), and large group (51+ employees) markets.

Covered Benefits

Each bill states: “[policies] *shall PROVIDE coverage for THE SCREENING, diagnosis and treatment of autism spectrum disorder ... THE COMMISSIONER ... SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS SHALL BE EVIDENCE-BASED, PEER-REVIEWED AND CLINICALLY PROVEN. UNTIL SUCH TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR MEDICALLY NECESSARY BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE EDUCATIONAL OR HABILITATIVE IN NATURE,...*”

The inclusion of language noting that the American Academy of Pediatrics’ guidelines shall initially serve as the standard of treatment, and behavioral therapies shall not be denied on the basis that such therapies are educational or habilitative in nature is important. Based on this language, behavioral therapies, including applied behavioral analysis (ABA) would be expected to be covered. The coverage of behavioral therapies, including ABA has the most significant impact on cost of any mandated service. For the purpose of this report, when referring to ABA, we assume that this encompasses all behavioral therapies since ABA is the

most widely accepted, and we would expect other approved behavioral programs to have similar costs.

ABA programs are marked by intensive therapy that may include 30-40 hours of therapy a week under the most intensive programs, though many programs would not utilize that level of resources. Key assumptions underlying our ABA cost estimates are outlined in Section 6.

Annual Maximum Benefits or Age Limitations

S7000A / A10372 contains no age or dollar caps for any medical services.

Medical Necessity and Treatment Review

The bill does allow for utilization review by specifically stating: “*COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE PROVISIONS.*” This is important as insurers will develop protocols to review treatments and manage care which will limit unnecessary treatments if reviews are done appropriately.



Modeling Methodology

The following outlines the general modeling methodology used to develop our cost estimates. Estimates were developed both on a per covered person per year basis, and as a percentage of average annual premiums, as shown in Section 7. Details of key assumptions are discussed in Section 6 and illustrated graphically in the exhibits shown in Appendix 1.

Modeling Perspective

Our model was developed to produce costs under a range of assumptions, but generally assumes that a sufficient supply of providers would be available to meet the demand for autism services, especially with regard to ABA services. It also assumes that there would be sufficient awareness of autism and motivation (primarily by parents) to seek treatment so that the diagnosis and treatment of ASDs would be more in line with CDC diagnosed prevalence estimates.

We would expect that it would take a minimum of several years for both the supply of providers to meet the demand for mandated ASD services and for parents of autistic children to aggressively seek treatment of their children's disorders.

In spite of these real limitations that will likely limit short-term costs associated with mandated autism benefits, we feel that it is appropriate from a public policy perspective to look at the costs over a longer term and assume that both awareness of ASDs will increase and that supply and demand for ASD services would eventually be in balance. We have developed our estimates with this in mind.

Acknowledging that short-term costs are also important to policymakers, in the sections outlining our cost estimates, we have included illustrative exhibits showing the possible progression of costs for mandated benefits by assuming that initial costs would be roughly one-half of the long-term estimates. We also assumed that it would take five years for costs to reach their ultimate levels, although these assumptions varied by cost scenario.

It is also instructive to look at some of the limited evidence available related to actual costs of ABA mandated benefits in other states. Aetna noted in December 2008 that it had tracked the cost of the autism mandate in Texas for its first year of existence and found that it increased costs for policyholders who filed autism-related claims by \$379 a month. A total of 235 policyholders had filed autism claims in the state as of the time the data was released. At that time, the company had not decided whether to pass those costs on to the policyholders because the cost of the mandate might change after the first year.² While this is only first year experience for a single insurer, it illustrates that initial mandate costs are likely low. Aetna's Texas block of business is quite large (approximately \$1.5 - 2.0 billion in premium³), so the statistics provided indicate a mandate cost of less than 0.1% of premium.

General Modeling Process

The modeling process employed to develop our cost estimates was as follows:

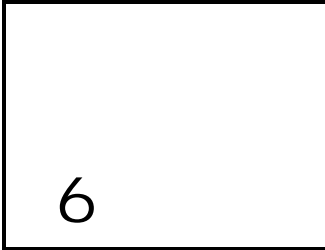
1. A treated prevalence estimate for New York was developed based on the Center for Disease Control and Prevention's (CDC) Mortality and Morbidity Weekly Report (MMWR) on autism prevalence dated December 18, 2009.
2. Prevalence rates by diagnostic subtype (autistic disorder, PDD-NOS, Asperger's Syndrome) were estimated separately, since diagnosis patterns and service utilization could reasonably be expected to vary by how severely affected an individual with ASD is and by diagnostic subtype.
3. The percentage of children diagnosed by age for each diagnostic subtype was estimated so that the average ages of diagnosis implicit in the modeling are consistent with publicly available age at diagnosis statistics.⁴
4. The percentage of diagnosed children who could be expected to have an ABA program was estimated for each age based on assumptions regarding the percentage of children that would start a program and typical program continuance.
5. A distribution of the number of annual hours for ABA by age was developed based on ABA provider input and an assumption that utilization review by insurers would impact utilization to some degree.
6. Based on the assumed treatment prevalence, likelihood of having an ABA program, assumed distribution of ABA program hours, and estimated ABA program cost per hour of therapy, ABA cost estimates by age were developed.
7. Non-ABA costs were estimated based upon studies of medical costs for children diagnosed with ASD and judgment regarding the increase in costs that could be expected due to the mandated benefits.
8. Based on Census demographic data and the cost estimates for mandated ASD services by age as outlined in 1-7 above, an annual cost per covered individual was developed.

² Associated Press. *Lawmaker: Oklahoma autism bill has momentum*. December 4, 2008. <http://newsok.com/article/3327594>. Accessed January 2009.

³ NAIC Annual Statements for 2007.

⁴ IAN database. <http://dashboard.ianexchange.org/StateStatsAdvanced.aspx?A1=VA&ADU=T>. Accessed January 2009.

9. The cost of services was increased to reflect administrative and other insurer costs or profit charges.
10. The estimated size of the covered market was developed based on Census, Medical Expenditure Panel Survey (MEPS) enrollment and premium information for New York, and Kaiser Family Foundation coverage data. These assumptions are further documented in Section 6.
11. The cost of the mandated services per covered person and as a percentage of premiums were calculated based on the model cost estimates and market data under a range of assumptions to develop “Low,” “Middle,” and “High” cost scenario estimates.



Summary of Key Assumptions

Key assumptions underlying the cost estimates for the proposed mandated benefits are summarized in this section. In order to better illustrate the sensitivity of costs to various assumptions, we developed assumptions for “Low,” “Middle,” and “High” cost scenarios. Appendix 1 further illustrates these assumptions for the “Middle” scenario.

Treated Prevalence and Age at Diagnosis

The December 18, 2009 CDC MMWR⁵ report included the following information related to the prevalence of ASD:

- 1. Children aged 8 years with a notation of an ASD or descriptions consistent with an ASD were identified through screening and abstraction of existing health and education records containing professional assessments of the child’s developmental progress at health-care or education facilities. Children aged 8 years whose parent(s) or legal guardian(s) resided in the respective areas in 2006 met the case definition for an ASD if their records documented behaviors consistent with the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, text revision (DSM-IV-TR) criteria for autistic disorder, pervasive developmental disorder–not otherwise specified (PDD NOS), or Asperger disorder. Presence of an identified ASD was determined through a review of data abstracted from developmental evaluation records by trained clinician reviewers.⁶*
- 2. In 2006, the overall identified ASD prevalence per 1,000 children aged 8 years varied across ADDM sites ... The average across all 11 sites was 9.0 (CI = 8.6–9.3) per 1,000 children.⁷ A prevalence rate of 9 per 1,000 is approximately 1 in 110.*

⁵ Centers for Disease Control and Prevention. Morbidity and Mortality Weekly Report. December 18, 2009. <http://www.cdc.gov/mmwr/>. Accessed January 2010.

⁶ Ibid, p. 1

⁷ Ibid, p. 7

3. *In general, estimated ASD prevalence was lower in ADDM sites that relied solely on health sources to identify cases (mean: 7.5 per 1,000 population; CI = 7.0–7.9) compared with sites that also had access to education sources.*⁸
4. *Among all children meeting the ADDM ASD surveillance case definition, approximately 77% had a documented ASD classification in their records.*⁹
5. *All children initially identified for screening were first stratified by two factors highly associated with final case status: information source (education only, health only, or both types of sources) and the presence or absence of either an ASD ICD-9 code (299.0 or 299.8) or an autism special education eligibility. The potential number of cases missed because of missing records, and the impact on prevalence, was estimated on the assumption that within each of the strata, the proportion of children with missing records who ultimately would be confirmed as having ASD cases would have been similar to that of children for whom no records were missing.*¹⁰

In estimating treated prevalence, which drives medical services utilization and costs, we used the population prevalence as a starting point, and then made adjustments based on details in the MMWR study which would indicate that treated prevalence could be expected to be lower than population prevalence. Treated prevalence rates would be expected to be lower than population prevalence rates for several reasons:

1. As noted in 4. above, approximately 77% of children had a documented ASD classification in their records. Without a documented ASD diagnosis, it is not likely that someone would receive treatments for ASD covered by insurance. Note 77% of the 9.0/1000 population prevalence means a documented diagnosis prevalence rate of approximately 1 in 144.
2. There is a reasonable expectation that covered medical ASD services would be supported by documentation in health records. Based on a review of health records, only, the population prevalence of ASD is approximately 7.5/1000, or 1 in 133.
3. The CDC methodology assumed that where records and information were missing, the proportion of children with missing records who ultimately would be confirmed as having ASD cases would have been similar to that of children for whom no records were missing. There is a reasonable likelihood that records would be less likely to be missing for children with documented ASD diagnoses who would seek treatment.
4. With ASD, as with any other disease or disorder, there will be some subset of the diagnosed population that will not seek treatment for any number of reasons.

Based on our analysis of the CDC report, including the key items from the report noted above, a reasonable assumption for the treated prevalence of ASD is 1 in 150. While there is

⁸ Ibid, p. 7

⁹ Ibid, p. 9

¹⁰ Ibid, p.7

obvious rationale for modeling cost sensitivities to changes in prevalence, we did not do so since the range of likely costs based on the sensitivity testing outlined in the remainder of this report provides a fairly wide range and illustration of potential costs, and determining the impact on costs of different treated prevalence rates is a simple task.

Prevalence by diagnostic subtype was estimated based on an academic study published in the American Journal of Psychiatry.¹¹ As noted in the previous section, the percentage of children diagnosed by age for each diagnostic subtype was estimated so that the average age of diagnosis implicit in the modeling is consistent with publicly available age at diagnosis statistics.

The treated prevalence and age at diagnosis assumptions for New York are shown below:

<u>New York Treated Prevalence</u>		
<u>Diagnostic Subtype</u>	<u>Ultimate Prevalence</u>	<u>Average Age of Diagnosis</u>
Autistic Disorder	1 in 450	3
PDD-NOS	1 in 300	3
Asperger's	1 in 900	6
All ASD	1 in 150	

The average age of diagnosis stated in the 2009 CDC MMWR report is 53 months¹² which is higher than the average age used in our cost modeling of about 42 months, we believe that this difference is reasonable and explainable in that we are using parent reported data that is likely provided by the same parents who would most likely utilize insured benefits. Note a lower age of diagnosis results in higher cost estimates, all other things being equal.

ABA Program Utilization and Cost

ABA Program Utilization by Age

ABA programs require a significant commitment from affected children, as well as their families. It is likely that a significant number of ASD children will not have an ABA program regardless of the availability of a provider, and many others diagnosed with ASD, especially those in more rural areas, may have difficulty accessing a provider. For this reason, we have assumed that 40% to 66.7% (40% for “Low” scenario, 50% for “Middle” and 66.7% for “High”) of diagnosed children under age 6 will begin an ABA program. Based on discussions with ABA providers and researchers, actual utilization of ABA programs has been lower in many cases due to the lack of providers, the lack of coverage, and to some extent the limited understanding of ABA programs and their efficacy.

In Minnesota, a state that is widely regarded as having some of the most extensive ABA coverage and services in the nation, provider data indicates ABA utilization of approximately 20% of diagnosed three to six year olds¹³, which is considerably lower than assumed in each

¹¹ Fombonne, E. and S. Chakrabarti. American Journal of Psychiatry. June 2005.

¹² Centers for Disease Control and Prevention. Morbidity and Mortality Weekly Report. December 18, 2009. p. 9.

¹³ Discussion with Dr. Eric Larsson Executive Director, Clinical Services, The Lovaas Institute for Early Intervention Midwest Headquarters regarding ABA utilization research in Minnesota. February 2009.

of the scenarios in our modeling. While our range of assumptions for ABA utilization may appear conservative, and likely is conservative in the near-term, we feel that the range is reasonable since insurers will likely have some conservatism in their cost estimates and premium rates. Private insurance utilization will also likely be higher than under the public/private programs in Minnesota, and utilization could increase over time due to increased awareness of ASD, and potentially, an increased supply of ABA providers.

In addition to the likelihood of starting a program, program continuance assumptions have a very significant impact on overall ABA utilization and cost estimates. ABA programs are generally geared towards addressing deficits in younger children and are not intended to be continued indefinitely. For this reason, we have assumed that no programs would terminate prior to school age, that a large percentage of ABA programs would terminate at ages six and seven when an autistic child could be expected to enter elementary school, and annually thereafter a large percentage of remaining programs would terminate until only a very small percentage of children have ABA programs by the time they reach their teenage years. Programs would be expected to terminate if a child has experienced sufficient progress whereby a program is no longer necessary or if the insurer or family sees no progress, as well as for other reasons.

The assumed percentage of children diagnosed with ASD that have an ABA program by age for our “Middle” scenario is shown in the table below:

% of Diagnosed Children w/ ABA	
Under 6	50.0%
6	37.5%
7	25.0%
8	16.7%
9	11.1%
10	7.4%
11	4.9%
12	3.3%
13 to 21	2.5%

ABA Program Annual Number of Hours

In developing the assumed annual ABA program hours, we discussed typical ABA programming with ABA providers, and reviewed some benefit materials from one of the few large self-insured employers who offer ABA benefits.¹⁴ We developed a distribution of expected hours that resulted in the annual averages shown in the table below:

Average ABA Program Hours	
Ages Under 8	1,500
Ages 8 to 12	671
Ages 13 to 21	401

The general assumption is that pre-school aged children will have programs for 20 to 40 hours a week, averaging about 30 hours a week. This time will be reduced by over half by

¹⁴ Autism Therapy Reference- Microsoft Corporation (administered by Premera Blue Cross).

age eight, when children would be expected to be in school and the school system would be required to provide services during the school day. It would then again be reduced significantly at age 13, as the child ages and ABA programs would be expected to be less time consuming and address a smaller number of behavioral deficits.

Cost per Hour of ABA Service

In developing the costs per hour, we reviewed ABA program staffing information and ABA provider wage and overhead cost assumptions. We developed an average cost for the entire United States and then adjusted this for New York, based on Bureau of Labor Statistics¹⁵ health care wage data. The resulting average cost per hour of ABA therapy in New York is about \$51 for a program based on the assumption that staffing will be in line with what best practices might recommend. This is the cost underlying our “High” assumption, though we note that costs would vary based on the mix of professionals and technicians providing the services, and likely would be lower if less experienced ABA practitioners need to be employed to meet the increasing demands for services.

Range of Annual ABA Program Costs for Scenario Estimates

Given the actual cost of an ABA program could vary significantly for many reasons, we have assumed annual average program costs by scenario as follows:

“Low” cost scenario - assumes average ABA program cost is \$45,000 per year.

“Middle” cost scenario - assumes average ABA program cost is \$55,000 per year.

“High” cost scenario - based on the assumptions outlined in this section for the continuance of ABA programming, the number of annual hours for ABA programming, and an hourly rate of \$51.24, the calculated average annual cost for an ABA program for all ages is \$64,183.

Other (than ABA) Medical Costs

Based on several studies¹⁶, we estimated that children with ASDs had costs covered by insurers of approximately three times the average for non-inpatient medical services under current benefit programs. It is also clear that the mandate would mean that some services that an insurer could currently deny or exclude would now be covered. In our range of estimates, we assumed that the mandate would result in additional insured medical costs of 50% to 100% of the current level of estimated covered non-inpatient costs for services to children diagnosed with an ASD which we assumed are currently three times higher than the population costs in the absence of the benefit mandates under S7000A / A10372 for children/dependents under 23 diagnosed with an ASD.

We also included a provision for the potential costs associated with covered individuals ages 23 and over that could be impacted by S7000A / A10372. This takes into account that many dependent children with an ASD can become independent adults and would cease to be

¹⁵ BLS wage data. <http://www.bls.gov/guide/geography/wages.htm> accessed January 2009.

¹⁶ Mandell, Cao, Ittenbach, & Pinto-Martin, 2006. Croen, Najjar, Ray, Lotspeich, & Bernal, 2006. Liptak, Stuart, & Auinger, 2006.

covered by their parents’ insurance policies, and that ASD related medical costs could be expected generally to decrease as an individual ages.

The estimated annual cost for additional non-ABA services (note many non-ABA medical services are already provided to individuals with ASD) that would be covered as a result of the mandate are shown for each scenario in the table below:

Scenario	Non-ABA Medical Costs	
	(22 & Under)	(23 & Over)
Low	\$2,250	\$1,125
Middle	\$3,375	\$1,688
High	\$4,500	\$2,250

(Amounts in 2010 dollars)

Administrative Costs

Typically, medical claim costs could be expected to be 80 to 90% of premiums, meaning 10 to 20% of premiums are available for administration, profit, or other costs, often collectively referred to as “retention.” We have estimated the incremental retention charge to be 15% of premium.

New York Market Data

The MEPS survey provides average premiums, enrollees, offer rates, take-up rates, and self-insured percentages by employer size for healthcare coverage sponsored by privately insured employers. From this data we can estimate the size of the privately insured small group, insured large group, and self-insured markets. State-specific premium data for New York was available for 2006¹⁷, so we trended this based on average recent employer premium increases provided from the Kaiser Family Foundation HRET¹⁸ survey to estimate the 2010 average annual premium per member necessary to compute the cost of mandated benefits as a percentage of annual premiums.

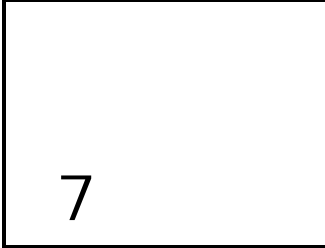
To estimate average premiums for the individual market, we reviewed survey results developed by America’s Health Insurance Plans¹⁹ that showed average premiums and members per policy by state.

As part of our development of premiums and membership estimates, we completed reasonableness tests by reviewing New York insurer annual statement exhibits to ensure that the premium estimates are not unreasonable.

¹⁷ MEPS state survey data. http://www.meps.ahrq.gov/mepsweb/data_stats/state_tables.jsp?regionid=-1&year=-1. Accessed January 2009.

¹⁸ Kaiser Family Foundation and Health Research Educational Trust. Employer Health Benefits- 2008 Annual Survey.

¹⁹ AHIP Individual Health Insurance 2006 - 2007: A Comprehensive Survey of Premiums, Availability, and Benefits. http://www.ahipresearch.org/pdfs/Individual_Market_Survey_December_2007.pdf. Accessed January 2009.



Cost Estimates

Long-Term Cost Estimates - “Middle” Cost Scenario

The table below summarizes our “Middle” scenario average annual cost estimates and premium increases on a per covered person basis, and as a percentage of the annual premiums. Our “Middle” estimate is that, in the long-term, the premium increase associated with the mandated benefits provided by S7000A / A10372 would be about 0.63% of insured premiums across all markets. However, we expect that costs would be lower in the years immediately following the passage of S7000A / A10372 based on experiences in other states that have mandated ASD benefits, lags typically seen in accessing new benefits, and the limited supply of ABA providers.

The estimated cost increases for the individual, small, and large group markets are shown in the table below. The annual claim cost per covered person estimate of \$23.50, and premium increase of \$27.60, are in 2010 dollars. We would expect the costs per covered person in any program covering government employees to be similar to the large group cost estimate.

	Market			
	Individual	Small Group	Large Group	All
Covered Persons	669,000	2,011,000	3,227,000	5,907,000
Average Premium per Person	\$5,000	\$4,500	\$4,200	\$4,393
Annual Mandate Claim Cost per Covered Person	\$23.50	\$23.50	\$23.50	\$23.50
Claim Cost as a Percentage of Premium	0.47%	0.52%	0.56%	0.53%
Estimated Premium Increase with Admin @ 15%	\$27.60	\$27.60	\$27.60	\$27.60
Premium Increase as a Percentage of Premium	0.55%	0.61%	0.66%	0.63%

Scenario Estimates

As discussed in Section 3, very little insurance data exists that can be used to directly estimate the costs of ABA benefits mandated by S7000A / A10372. This causes uncertainty in developing actuarial assumptions and cost estimates. Due to this uncertainty, it is useful to develop cost estimates for scenarios using optimistic and pessimistic assumptions.

Cost estimates are very sensitive to various assumptions, especially those related to ABA utilization and costs. Therefore, we varied our assumptions to develop estimated costs for ASD services under “Low,” “Middle,” and “High” cost scenarios, as shown in the table below:

Scenario	% Diagnosed Under Age 6 Starting ABA	Avg. Annual ABA Program Cost	Avg. Annual non-ABA Cost (22 & under)	Annual Premium Increase per Covered Person	Premium Increase (% of Premium)
Low	40.0%	\$45,000	\$2,250	\$18.20	0.42%
Middle	50.0%	\$55,000	\$3,375	\$27.60	0.63%
High	66.7%	\$64,183	\$4,500	\$40.40	0.92%

Short-Term Cost Estimates by Scenario

In addition to the uncertainty associated with long-term cost estimates, how quickly costs could reach their ultimate level due to the limited supply of ABA therapists is also uncertain. We have provided the table below to illustrate the potential short-term increases in premiums, and how they could grade into the long-term estimates over time.

Estimated Increase in Premiums due to S.7000A / A10372 Benefits						
Scenario	Year 1	Year 2	Year 3	Year 4	Year 5	Years 6 and Beyond
Low	0.14%	0.19%	0.25%	0.30%	0.36%	0.42%
Middle	0.31%	0.38%	0.44%	0.50%	0.57%	0.63%
High	0.61%	0.67%	0.73%	0.80%	0.86%	0.92%

Individual Market Comment

In developing the individual market cost estimates, we note that the New York individual market requires guaranteed issue and community rating. Comprehensive coverage within this market is generally very expensive, and those insured in it tend to be poor risks from an insurer’s perspective. It is not unusual for comprehensive family coverage to cost \$3,000 to \$4,000 per month.

Determining the impact on individual market premiums of adding a population of children with ASD, likely along with their family members, would require an assessment of the likely costs of those added to this pool relative to those currently in the pool. Completing this assessment is complicated and beyond the scope of this review. Therefore, the individual market costs assume similar utilization of ASD services and costs of those enrolled in the group markets.

8

Cost – Benefit Analysis for ASD Treatments

There have been several studies related to the efficacy of ABA treatment programs, and the costs associated with ASD treatments, care, and supports. In this section, we summarize some of these studies.

Societal Costs of Autism- Ganz Report

One of the most often cited reports explaining the financial costs of ASD is *The Lifetime Distribution of the Incremental Societal Costs of Autism* by Michael Ganz, MS, PhD was published in 2007. This report summarized the modeled costs of a hypothetical cohort of children born in 2000 and diagnosed with autism in 2003. A study result is that the incremental societal cost of autism is \$3.2 million per capita in 2003 dollars.²⁰ The report is very helpful in identifying specific costs of ASD, and in providing a framework for quantifying these costs, as well as providing actual cost estimates.

Direct Medical

- Physician and Dental
- Drugs
- Complementary and Alternative Therapies
- Behavioral Therapies
- Emergency and Hospital
- Home Healthcare
- Travel

²⁰ Ganz, Michael L. *The Lifetime Distribution of the Incremental Societal Costs of Autism*. Archives of Pediatrics & Adolescent Medicine. April 2007. Volume 161.

Direct Nonmedical

- Child Care
- Adult Care
- Respite Care
- Home Improvements
- Special Education
- Supported Work
- Other

Indirect

- Own Indirect- lost productivity and lower wages
- Not Own Indirect - lost productivity and lower wages of others (typically family)

Cost Savings to State and Local Governments

The Ganz study is probably the most comprehensive in terms of assessing the breadth of the financial costs associated with caring for individuals with ASD. Several other studies have attempted more limited quantifications of costs and savings to governments associated with providing early intensive behavioral interventions (EIBI) or ABA programs for young children. In summary, the studies quantify the costs of EIBI, assume success rates associated with EIBI based on efficacy studies, and then assume cost savings to educational and other government financed programs like Medicaid associated with these treatments.

Virginia’s independent Joint Legislative Audit and Review Commission (JLARC) issued a report in August 2009: *Report of the Joint Legislative Audit and Review Commission To the Governor and The General Assembly of Virginia - Assessment of Services For Virginians With Autism Spectrum Disorders*. As part of this report, JLARC reviewed several studies related to the efficacy of EIBI, and potential cost savings to State and Local governments associated with effective EIBI treatments. The JLARC report outlines their assessment of the cost savings associated with EIBI as follows²¹:

“A study published in a national journal found that Pennsylvania could save an average of \$187,000 to \$203,000 on each child who received three years of EIBI relative to one who received special education services until age 22. The Pennsylvania study also suggested that cost savings would likely continue to accrue after children exit the school system. The study found that the state could save from \$656,000 to \$1.1 million per child if expenditures up to age 55 are included. Another study published in a national journal found that Texas could save an average of \$208,500 in education costs for each student who received three years of EIBI relative to a student who received 18 years of special education from ages four to 22. Applied to the estimated 10,000 children with ASDs in Texas, it was estimated that the state could save almost \$2.1 billion by implementing intensive treatment programs.

By applying the methodology used in the Pennsylvania and Texas studies to Virginia-related data, JLARC staff estimate that the Commonwealth could save approximately \$137,400 in special education costs per student with an ASD if EIBI was consistently provided. In fact, the analysis

²¹ *Report of the Joint Legislative Audit and Review Commission To the Governor and The General Assembly of Virginia - Assessment of Services For Virginians With Autism Spectrum Disorders*, p. 15. <http://jlarc.virginia.gov/reports/Rpt388.pdf>. Accessed December 2009.

indicates that Virginia could realize savings as long as at least 42 percent of students with ASDs who received EIBI make moderate improvements (require less intensive services and fewer supports), which is a substantially more conservative outcome than the outcomes reported in the research literature.”

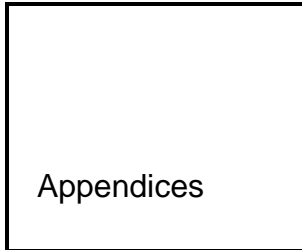
The actual success rates of EIBI treatments will drive the benefits derived from these treatments. Also, as noted in the JLARC report, moderate improvements in functioning could also lead to significant financial savings. The JLARC report also discusses various studies of the efficacy of EIBI and Table 3 on page 15 of the report summarizes the findings on the efficacy of EIBI of three research studies. This table is reproduced below:

Table 3: Multiple Studies Demonstrate Children Who Receive Intensive Treatment Fare Better Than Those Who Receive Less Intensive Services

Group	Outcomes	
	Average Change in IQ Points	Educational Placement
<i>EIBI compared to less intensive public school special education (2006 study)</i>		
Treatment	+25	<ul style="list-style-type: none"> ▪ 29% in general class without supports ▪ 52% in general class with supports
Comparison	+14	<ul style="list-style-type: none"> ▪ 5% in general class
<i>EIBI compared to less intensive parent-training model (2000 study)</i>		
Treatment	+16	<ul style="list-style-type: none"> ▪ 27% in general class without supports
Comparison	-1	<ul style="list-style-type: none"> ▪ No children in general class without supports
<i>EIBI compared to less intensive treatment (1987 study)</i>		
Treatment	<ul style="list-style-type: none"> ▪ 47% achieved IQ in normal range (94-120) 	<ul style="list-style-type: none"> ▪ 47% in general class without supports ▪ 42% in less intensive special education class for language delayed ▪ 11% in intensive special education class for children with autism or intellectual disability (ID)
Comparison	<ul style="list-style-type: none"> ▪ 2% achieved IQ in normal range 	<ul style="list-style-type: none"> ▪ 2% in general class without supports ▪ 45% in less intensive special education class for language delayed ▪ 53% in intensive special education class for children with autism or ID

Note: A more detailed table on the results of these studies can be found in Appendix C.

We currently do not have New York specific data that would allow us to provide estimates of the potential educational and medical savings that could be achieved through EIBI. Under the assumption that the costs of ASD services and efficacy of EIBI are in line with those indicated in the studies noted, we would expect that the costs of ABA treatments covered under S7000A / A10372 could be recovered through reductions in educational and medical expenditures, alone. We would also expect that benefits associated with successful treatments would be realized in the areas noted in the beginning of this section through reducing other costs of care and improving the productivity of individuals with ASD and their caregivers, in addition to non-economic or quality of life benefits.



Cost Assumptions - Illustrative Exhibits and
S7000A / A10372 Text

EXHIBIT I - SUMMARY OF NY S.7000A / A10372 "MIDDLE" SCENARIO ASSUMPTIONS AND COSTS

<u>State</u>	New York	<u>Key Assumptions:</u>	
		<u>United States Treated Prevalence</u>	<u>% of Diagnosed Children w/ ABA</u>
		<u>Diagnostic Subtype</u>	<u>Ultimate Prevalence</u>
		<u>Average Age of Diagnosis</u>	<u>Average Age of Diagnosis</u>
		Autistic Disorder	1 in 450
		PDD-NOS	1 in 300
		Asperger's	1 in 900
		All ASD	1 in 150
			Under 6
			6
			7
			8
			9
			10
			11
			12
			13 to 21
			50.0%
			37.5%
			25.0%
			16.7%
			11.1%
			7.4%
			4.9%
			3.3%
			2.5%
<u>Age Limits for Autism Benefits</u>		<u>New York Treated Prevalence</u>	
Minimum		<u>Diagnostic Subtype</u>	<u>Ultimate Prevalence</u>
Maximum	None	<u>Average Age of Diagnosis</u>	<u>Average Age of Diagnosis</u>
		Autistic Disorder	1 in 450
		PDD-NOS	1 in 300
		Asperger's	1 in 900
		All ASD	1 in 150
			3
			3
			6
			3
			3
			6
			6
			1,500
			671
			401
<u>Additional Annual Medical Costs for Non ABA Services</u>			<u>Average ABA Program Hours</u>
Ages 22 and under	\$ 3,375		Ages Under 8
Ages 23 and over	\$ 1,688		Ages 8 to 12
			Ages 13 to 21
			401
<u>Annual Limits by Covered Service</u>			
	<u>Hours Limit</u>	<u>Max Hours</u>	<u>Dollar Limit</u>
	No	-	No
			<u>Max \$s</u>
ABA			No Cap
			<u>Average cost of ABA Program:</u>
			\$55,000

Market
Individual
Small Group
Large Group
Total

Coverage Estimates		
Number of Persons Covered	Premium (Per Person)	Total Premium
669,000	\$ 5,000	\$ 3,345,000,000
2,011,000	4,500	9,049,500,000
3,227,000	\$ 4,200	\$ 13,553,400,000
5,907,000	\$ 4,393	\$ 25,947,900,000

Costs Excluding Administrative Expense			Premium Increase including Admin @ 15%		
Costs	Costs (% of Premium)	Cost (Per Covered Person)	Incremental Premium	Premium Increase %	Annual Increase per Covered Person
\$ 15,721,500	0.47%	\$ 23.50	\$ 18,496,000	0.55%	\$ 27.60
47,258,500	0.52%	23.50	55,598,000	0.61%	27.60
\$ 75,834,500	0.56%	\$ 23.50	\$ 89,217,000	0.66%	\$ 27.60
\$ 138,814,500	0.53%	\$ 23.50	\$ 163,311,000	0.63%	\$ 27.60

Exhibit II - Treated Prevalence by Age

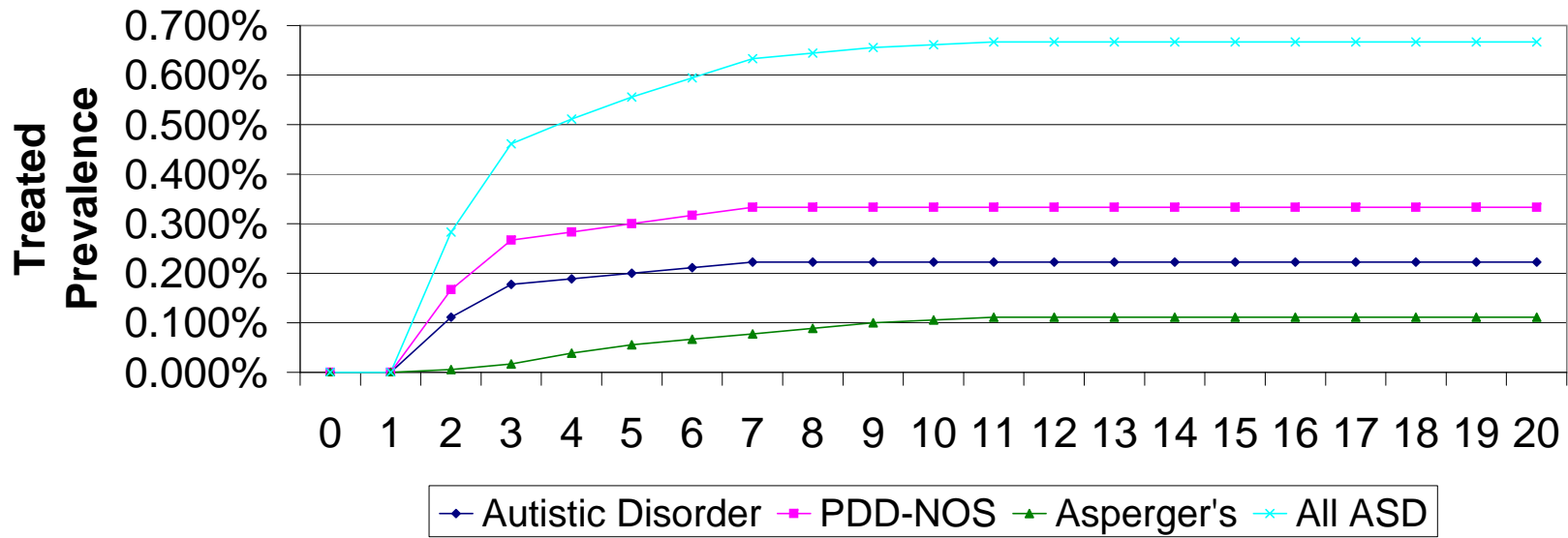


Exhibit III - Annual Cost Per Diagnosed/Treated Child

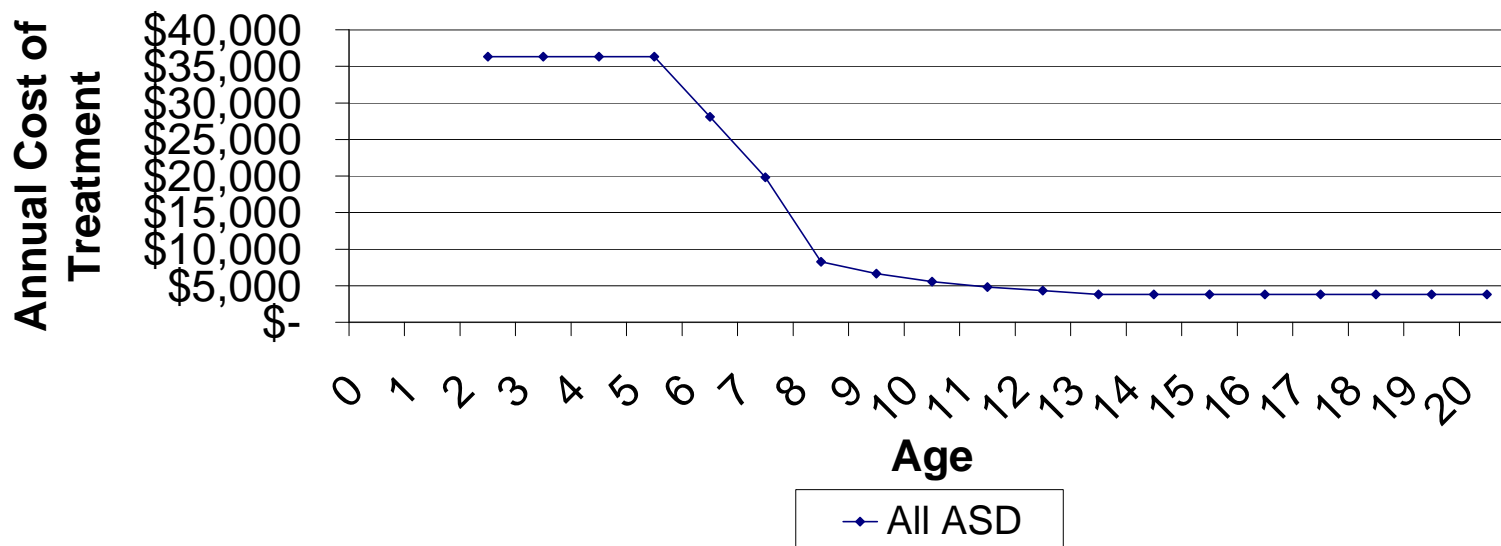


Exhibit IV - Annual Cost Per Autistic Child

(Includes both Diagnosed and Undiagnosed Children)

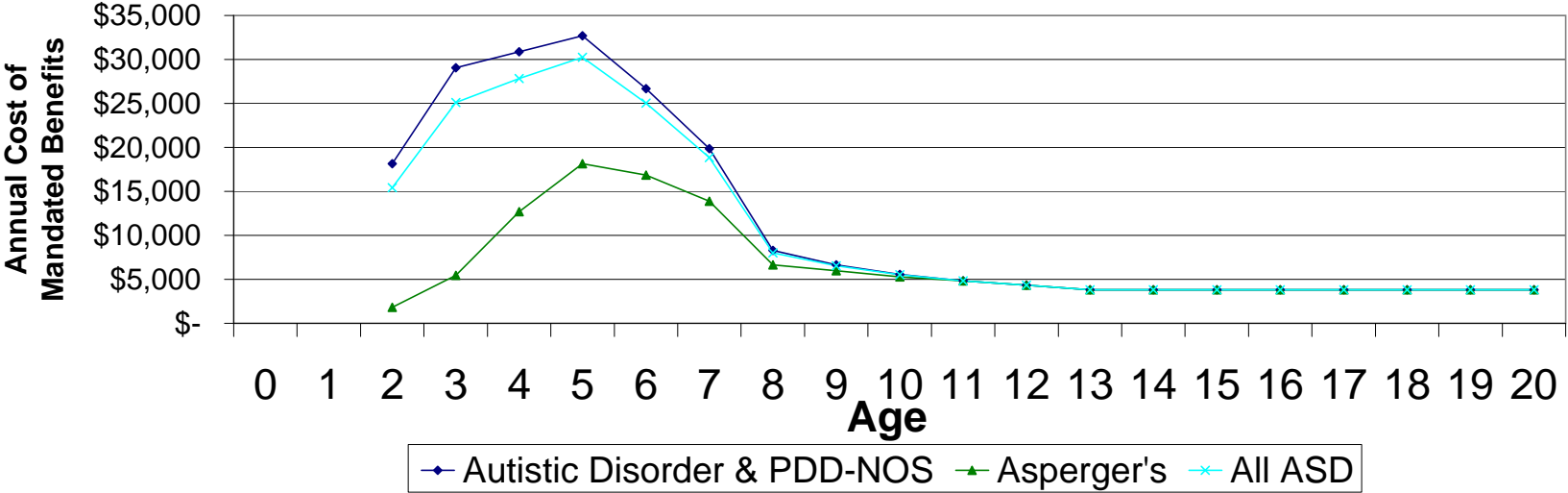


Exhibit V - ABA Utilization vs. Treated Prevalence

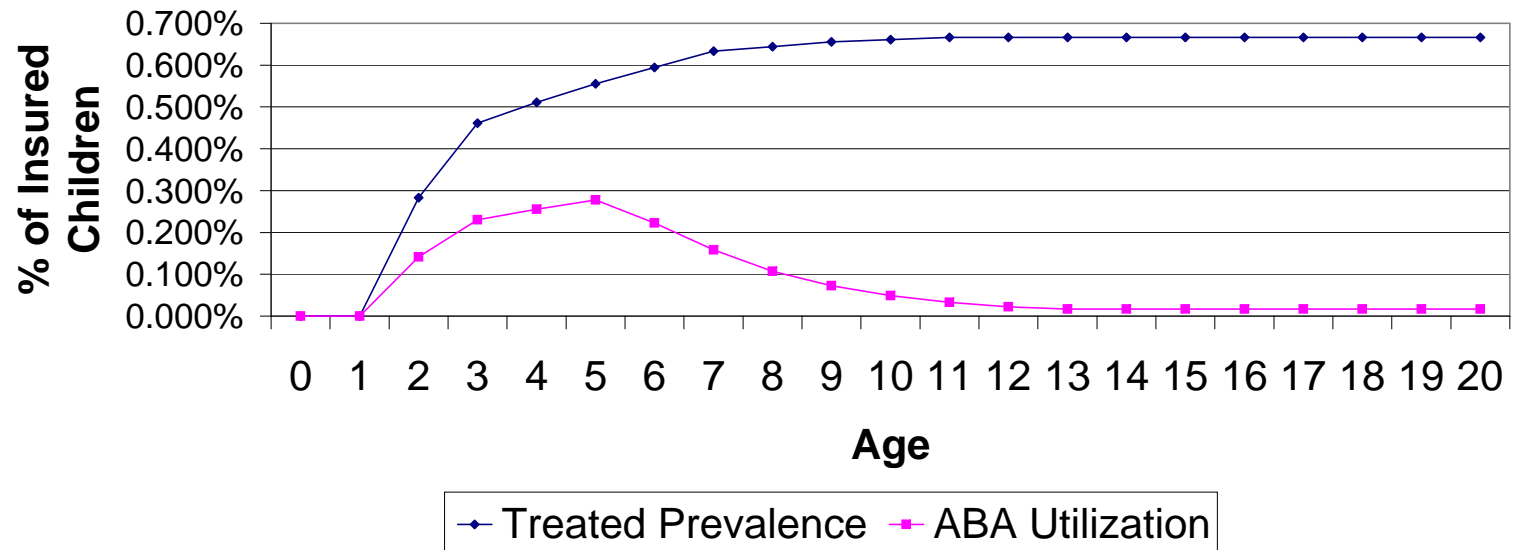
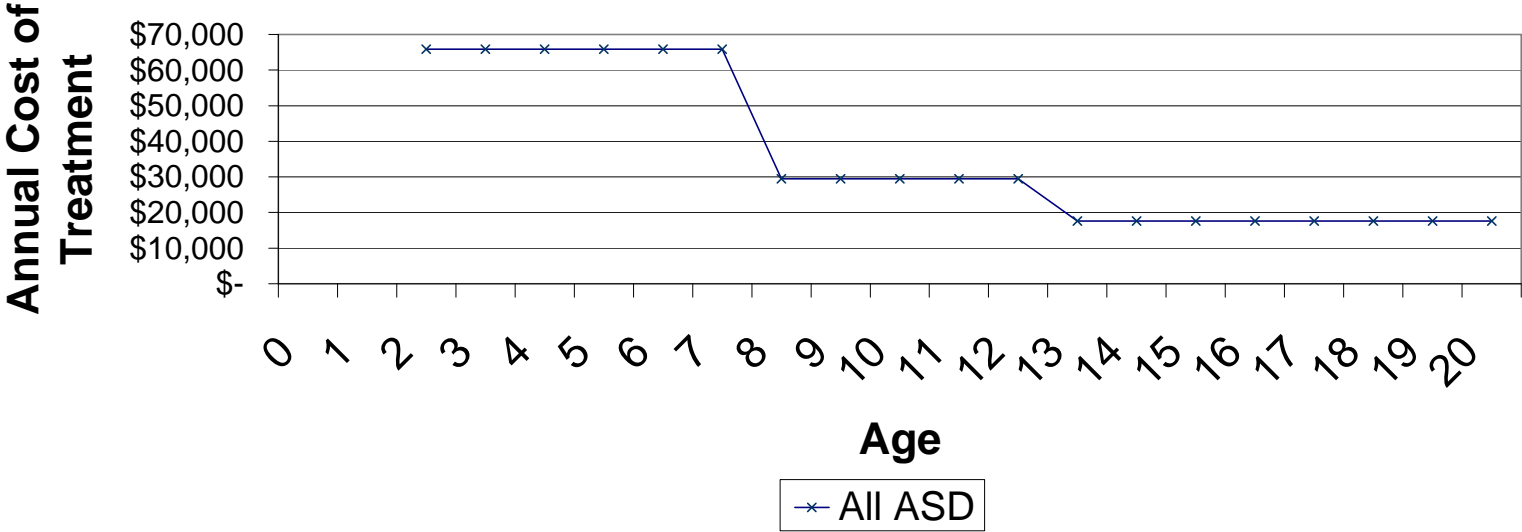


Exhibit VI - Annual Cost per Child With ABA Program



S T A T E O F N E W Y O R K

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I N S E N A T E

March 5, 2010

Introduced by Sens. BRESLIN, DUANE, C. JOHNSON, FOLEY, FUSCHILLO, HUNTLEY, MORAHAN, McDONALD, HASSELL-THOMPSON, ADAMS, ADDABBO, BONACIC, DeFRANCISCO, DIAZ, DILAN, ESPADA, GOLDEN, GRIFFO, HANNON, O. JOHNSON, KRUEGER, KRUGER, LANZA, LAVALLE, LITTLE, MARCELLINO, MAZIARZ, MONTGOMERY, NOZZOLIO, ONORATO, OPPENHEIMER, PADAVAN, PARKER, PERKINS, ROBACH, SALAND, SAMPSON, SAVINO, SCHNEIDERMAN, SERRANO, SMITH, SQUADRON, STAVISKY, STEWART-COUSINS, THOMPSON, VALESKY, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the public health law, in relation to coverage for the screening, diagnosis and treatment of autism spectrum disorder

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 25 of subsection (i) of section 3216 of the
2 insurance law, as added by chapter 557 of the laws of 2006, is amended
3 to read as follows:
4 (25) Every policy which provides coverage for hospital, surgical, or
5 medical care coverage shall [not exclude] PROVIDE coverage for THE
6 SCREENING, diagnosis and treatment of [medical conditions otherwise
7 covered by the policy solely because the treatment is provided to diag-
8 nose or treat] autism spectrum disorder IN ACCORDANCE WITH THIS PARA-
9 GRAPH. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES, COPAYMENTS
10 AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND
11 SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS UNDER THE POLI-
12 CY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT
13 ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY. COVERAGE MAY
14 BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE
15 REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE
16 PROVISIONS.
17 (A) For purposes of this [section] PARAGRAPH, "autism spectrum disorder"
18 means a GROUP OF neurobiological [condition that includes autism,
19 Asperger syndrome, Rett's syndrome, or pervasive developmental disorder]

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD16099-04-0

S. 7000--A

2

1 CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL
2 DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL
3 DISORDERS.

4 (B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTEN-
5 DENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMIS-
6 SIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-

7 TIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL
 8 IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE
 9 REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM
 10 DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS
 11 SHALL BE EVIDENCE-BASED, PEER-REVIEWED AND CLINICALLY PROVEN. UNTIL SUCH
 12 TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY
 13 PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN
 14 ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF
 15 AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND
 16 THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR
 17 MEDICALLY NECESSARY BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS
 18 SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE
 19 EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE
 20 PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION
 21 TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDI-
 22 VIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW
 23 OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE
 24 OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. THE PROVISION OF
 25 SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVID-
 26 UALIZED EDUCATION PLAN OR AN INDIVIDUALIZED SERVICE PLAN SHALL NOT
 27 AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL
 28 BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED
 29 MEDICALLY NECESSARY.

30 (C) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO
 31 PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE
 32 PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC
 33 HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE
 34 OF THE EDUCATION LAW OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGU-
 35 LATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
 36 TIES.

37 (D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A POLICY
 38 FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO
 39 SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER
 40 CREDENTIALING. THE COMMISSIONER OF HEALTH SHALL ENSURE THAT PROVIDER
 41 NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

42 S 2. Paragraph 17 of subsection (1) of section 3221 of the insurance
 43 law, as added by chapter 557 of the laws of 2006, is amended to read as
 44 follows:

45 (17) [A] EVERY group or blanket accident [or] AND health insurance
 46 policy [or issuing a group or blanket policy for delivery in this state]
 47 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE which provides coverage
 48 for hospital, surgical, or medical care coverage shall [not exclude]
 49 PROVIDE coverage for THE SCREENING, diagnosis and treatment of [medical
 50 conditions otherwise covered by the policy because the treatment is
 51 provided to diagnose or treat] autism spectrum disorder IN ACCORDANCE
 52 WITH THIS PARAGRAPH. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES,
 53 COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPER-
 54 INTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS
 55 UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE
 56 BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY.

S. 7000--A

3

1 COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES,
 2 INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER
 3 MANAGED CARE PROVISIONS.

4 (A) For purposes of this [section] PARAGRAPH, "autism spectrum disor-
 5 der" means a GROUP OF neurobiological [condition that includes autism,
 6 Asperger syndrome, Rett's syndrome, or pervasive developmental disorder]
 7 CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL

8 DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL
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24 SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE
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47 NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

48 S 3. Subsection (ee) of section 4303 of the insurance law, as added by
49 chapter 557 of the laws of 2006, is amended to read as follows:

50 (ee) A medical expense indemnity corporation, a hospital service
51 corporation or a health service corporation which provides coverage for
52 hospital, surgical, or medical care coverage shall [not exclude] PROVIDE
53 coverage for THE SCREENING, diagnosis and treatment of [medical condi-
54 tions otherwise covered by the policy solely because the treatment is
55 provided to diagnose or treat] autism spectrum disorder IN ACCORDANCE
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S. 7000--A

4

1 IBLES, COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE
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31 THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDIVID-
32 UALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW OR
33 AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE OF
34 MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. THE PROVISION OF
35 SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN OR AN INDI-
36 VIDUALIZED EDUCATION PLAN OR AN INDIVIDUALIZED SERVICE PLAN SHALL NOT
37 AFFECT COVERAGE UNDER THE CONTRACT FOR SERVICES PROVIDED ON A SUPPLE-
38 MENTAL BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE
39 DEEMED MEDICALLY NECESSARY.

40 (3) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO
41 PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE
42 PLAN UNDER SECTION TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC
43 HEALTH LAW, AN INDIVIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE
44 OF THE EDUCATION LAW OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGU-
45 LATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
46 TIES.

47 (4) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PREVENT A
48 CONTRACT FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING
49 PROVIDERS WHO SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUD-
50 ING PROVIDER CREDENTIALING. THE COMMISSIONER OF HEALTH SHALL ENSURE
51 THAT PROVIDER NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

52 S 4. Section 2500-j of the public health law is amended by adding a
53 new subdivision 4 to read as follows:

54 4. THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF INSUR-
55 ANCE, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMIS-
56 SIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-

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5

1 TIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL
2 IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE
3 REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM
4 DISORDER PURSUANT TO SECTIONS THIRTY-TWO HUNDRED SIXTEEN, THIRTY-TWO
5 HUNDRED TWENTY-ONE AND FORTY-THREE HUNDRED THREE OF THE INSURANCE LAW.

6 S 5. This act shall take effect on the first of January next succeed-
7 ing the date on which it shall have become a law and shall apply to all
8 policies or contracts issued, renewed, modified, altered or amended on
9 and after such effective date.

10372

I N A S S E M B L Y

March 19, 2010

Introduced by M. of A. MORELLE, SILVER, WEISENBERG, NOLAN, ORTIZ,
SCHROEDER -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation
to coverage for the screening, diagnosis and treatment of autism spec-
trum disorder

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 25 of subsection (i) of section 3216 of the
2 insurance law, as added by chapter 557 of the laws of 2006, is amended
3 to read as follows:

4 (25) Every policy which provides coverage for hospital, surgical, or
5 medical care coverage shall [not exclude] PROVIDE coverage for THE
6 SCREENING, diagnosis and treatment of [medical conditions otherwise
7 covered by the policy solely because the treatment is provided to diag-
8 nose or treat] autism spectrum disorder IN ACCORDANCE WITH THIS PARA-
9 GRAPH. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES, COPAYMENTS
10 AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND
11 SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS UNDER THE POLI-
12 CY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE BENEFITS THAT
13 ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY. COVERAGE MAY
14 BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES, INCLUDING THE
15 REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER MANAGED CARE
16 PROVISIONS.

17 (A) For purposes of this [section] PARAGRAPH, "autism spectrum disor-
18 der" means a GROUP OF neurobiological [condition that includes autism,
19 Asperger syndrome, Rett's syndrome, or pervasive developmental disorder]
20 CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL
21 DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL
22 DISORDERS.

23 (B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTEN-
24 DENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMIS-
25 SIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
26 TIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL
27 IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE
28 REQUIRED FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM
29 DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS
30 SHALL BE EVIDENCE-BASED, PEER-REVIEWED AND CLINICALLY PROVEN. UNTIL SUCH

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD16099-03-0

A. 10372

2

1 TIME AS REGULATIONS ARE PROMULGATED, THE CURRENT AND SUBSEQUENTLY
2 PUBLISHED CLINICAL REPORTS AND TREATMENT GUIDELINES OF THE AMERICAN
3 ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF
4 AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND
5 THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR
6 MEDICALLY NECESSARY BEHAVIORAL THERAPIES REQUIRED PURSUANT TO THIS

7 SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE
8 EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE
9 PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION
10 TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDI-
11 VIDUALIZED EDUCATION PLAN UNDER ARTICLE EIGHTY-NINE OF THE EDUCATION LAW
12 OR AN INDIVIDUALIZED SERVICE PLAN PURSUANT TO REGULATIONS OF THE OFFICE
13 OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. THE PROVISION OF
14 SERVICES PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVID-
15 UALIZED EDUCATION PLAN OR AN INDIVIDUALIZED SERVICE PLAN SHALL NOT
16 AFFECT COVERAGE UNDER THE POLICY FOR SERVICES PROVIDED ON A SUPPLEMENTAL
17 BASIS OUTSIDE OF AN EDUCATIONAL SETTING IF SUCH SERVICES ARE DEEMED
18 MEDICALLY NECESSARY.

19 (C) THIS PARAGRAPH SHALL NOT BE CONSTRUED TO AFFECT ANY OBLIGATION TO
20 PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE
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24 LATIONS OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
25 TIES.

26 (D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT A POLICY
27 FROM PROVIDING SERVICES THROUGH A NETWORK OF PARTICIPATING PROVIDERS WHO
28 SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER
29 CREDENTIALING. THE COMMISSIONER OF HEALTH SHALL ENSURE THAT PROVIDER
30 NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

31 S 2. Paragraph 17 of subsection (1) of section 3221 of the insurance
32 law, as added by chapter 557 of the laws of 2006, is amended to read as
33 follows:

34 (17) [A] EVERY group or blanket accident [or] AND health insurance
35 policy [or issuing a group or blanket policy for delivery in this state]
36 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE which provides coverage
37 for hospital, surgical, or medical care coverage shall [not exclude]
38 PROVIDE coverage for THE SCREENING, diagnosis and treatment of [medical
39 conditions otherwise covered by the policy because the treatment is
40 provided to diagnose or treat] autism spectrum disorder IN ACCORDANCE
41 WITH THIS PARAGRAPH. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES,
42 COPAYMENTS AND COINSURANCE AS MAY BE DEEMED APPROPRIATE BY THE SUPER-
43 INTENDENT AND SHALL BE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS
44 UNDER THE POLICY. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS LIMITING THE
45 BENEFITS THAT ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER THE POLICY.
46 COVERAGE MAY BE SUBJECT TO UTILIZATION REVIEW OF HEALTH CARE SERVICES,
47 INCLUDING THE REVIEW OF MEDICAL NECESSITY, CASE MANAGEMENT, AND OTHER
48 MANAGED CARE PROVISIONS.

49 (A) For purposes of this [section] PARAGRAPH, "autism spectrum disorder"
50 means a GROUP OF neurobiological [condition that includes autism,
51 Asperger syndrome, Rett's syndrome, or pervasive developmental disorder]
52 CONDITIONS DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL
53 DISORDERS IV REVISED, OR ITS SUCCESSOR, AS PERVASIVE DEVELOPMENTAL
54 DISORDERS.

55 (B) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE SUPERINTEN-
56 DENT, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMIS-
A. 10372

3

1 SIONER OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILI-
2 TIES, SHALL PROMULGATE, AND REGULARLY UPDATE, REGULATIONS WHICH SHALL
3 IDENTIFY TREATMENT AND THERAPY OPTIONS FOR WHICH COVERAGE SHALL BE
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5 DISORDER PURSUANT TO THIS PARAGRAPH. SUCH TREATMENT AND THERAPY OPTIONS
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9 ACADEMY OF PEDIATRICS FOR THE SCREENING, DIAGNOSIS AND TREATMENT OF
10 AUTISM SPECTRUM DISORDER SHALL SERVE AS THE STANDARD OF TREATMENT AND
11 THERAPY OPTIONS TO BE COVERED PURSUANT TO THIS PARAGRAPH. COVERAGE FOR
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13 SUBPARAGRAPH SHALL NOT BE DENIED ON THE BASIS THAT SUCH THERAPIES ARE
14 EDUCATIONAL OR HABILITATIVE IN NATURE, UNLESS SUCH TREATMENTS ARE
15 PROVIDED PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER SECTION
16 TWO THOUSAND FIVE HUNDRED FORTY-FIVE OF THE PUBLIC HEALTH LAW, AN INDI-
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34 SHALL MEET CERTAIN REQUIREMENTS FOR PARTICIPATION, INCLUDING PROVIDER
35 CREDENTIALING. THE COMMISSIONER OF HEALTH SHALL ENSURE THAT PROVIDER
36 NETWORKS ARE ADEQUATE TO IMPLEMENT THIS PARAGRAPH.

37 S 3. Subsection (ee) of section 4303 of the insurance law, as added by
38 chapter 557 of the laws of 2006, is amended to read as follows:

39 (ee) A medical expense indemnity corporation, a hospital service
40 corporation or a health service corporation which provides coverage for
41 hospital, surgical, or medical care coverage shall [not exclude] PROVIDE
42 coverage for THE SCREENING, diagnosis and treatment of [medical condi-
43 tions otherwise covered by the policy solely because the treatment is
44 provided to diagnose or treat] autism spectrum disorder IN ACCORDANCE
45 WITH THIS SUBSECTION. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCT-
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A. 10372 4

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52 ing the date on which it shall have become a law and shall apply to all
53 policies or contracts issued, renewed, modified, altered or amended on
54 and after such effective date.

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