



## President Barack Obama's Federal Autism Insurance Reform Bill

In his Presidential campaign statement on Autism Spectrum Disorders, President Barack Obama committed to bringing autism insurance reform to our entire nation. His statement put forth that Obama and Biden "will mandate insurance coverage of autism treatment and will also continue to work with parents, physicians, providers, researchers, and schools to create opportunities and effective solutions for people with ASD." President Obama has drafted comprehensive autism legislation, including a section addressing broad based federal autism insurance reform.

The following document includes excerpts from this legislation, entitled the "Autism Treatment Acceleration Act of 2008." We have reproduced the first page of the bill draft below, containing the sponsors and title of the bill. Following this section in the bill draft is Sections 1 through 7, which are unrelated to autism insurance reform and are excluded. Reproduced below is the final section of the bill draft, Sec. 8, which contains the provisions for federal reform of autism insurance coverage.

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110TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To provide for enhanced research, treatment, and services for autism.

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IN THE SENATE OF THE UNITED STATES

Mr. OBAMA (for himself and Mr. DURBIN) introduced the following bill; which  
was read twice and referred to the Committee on

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### **A BILL**

To provide for enhanced research, treatment, and services  
for autism.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Autism Treatment Ac-  
5 celeration Act of 2008".

3 **SEC. 8. AMENDMENTS RELATING TO HEALTH INSURANCE.**

4 (a) ERISA.—

5 (1) IN GENERAL.—Subpart B of part 7 of sub-  
6 title B of title I of the Employee Retirement Income  
7 Security Act of 1974 (29 U.S.C. 1185 et seq.) is  
8 amended by adding at the end the following:

9 **“SEC. 714. REQUIRED COVERAGE FOR AUTISM SPECTRUM**  
10 **DISORDERS.**

11 “(a) IN GENERAL.—A group health plan, and a  
12 health insurance issuer providing health insurance cov-  
13 erage in connection with a group health plan, shall provide  
14 coverage for the diagnosis of autism spectrum disorders  
15 and the treatment of autism spectrum disorders.

16 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-  
17 tion shall be construed—

18 “(1) as preventing a group health plan or  
19 health insurance issuer from imposing deductibles,  
20 coinsurance, or other cost-sharing in relation to ben-  
21 efits for the diagnosis and treatment of autism spec-  
22 trum disorders, except that such coinsurance or  
23 other cost-sharing for any such benefits may not be  
24 greater than such coinsurance or cost-sharing for  
25 any other benefit; and

1           “(2) to prevent a group health plan or a health  
2           insurance issuer from negotiating the level and type  
3           of reimbursement with a provider for care provided  
4           in accordance with this section.

5           “(c) NOTICE UNDER GROUP HEALTH PLAN.—The  
6           imposition of the requirements of this section shall be  
7           treated as a material modification in the terms of the plan  
8           described in section 102(a)(1), for purposes of assuring  
9           notice of such requirements under the plan, except that  
10          the summary description required to be provided under the  
11          last sentence of section 104(b)(1) with respect to such  
12          modification shall be provided not later than the earlier  
13          of—

14                 “(1) by not later than 60 days after the first  
15                 day of the first plan year in which such require-  
16                 ments apply;

17                 “(2) in the next mailing made by the plan or  
18                 issuer to the participant or beneficiary; or

19                 “(3) January 1, 2010.

20           “(d) PROHIBITIONS.—A group health plan, and a  
21           health insurance issuer offering group health insurance  
22           coverage in connection with a group health plan, shall  
23           not—

24                 “(1) deny to an individual eligibility, or contin-  
25                 ued eligibility, to enroll or to renew coverage under

1 the terms of the plan, solely for the purpose of  
2 avoiding the requirements of this section; or

3 “(2) deny coverage otherwise available under  
4 this section on the basis that coverage is necessary  
5 to develop, maintain, or restore skills or functioning,  
6 or to prevent the loss of skills or functioning.

7 “(e) PREEMPTION; RELATION TO STATE LAW.—

8 “(1) IN GENERAL.—Nothing in this section  
9 shall be construed to preempt any State law with re-  
10 spect to health insurance coverage that requires cov-  
11 erage of at least the coverage for autism spectrum  
12 disorders otherwise required under this section.

13 “(2) ERISA.—Nothing in this section shall be  
14 construed to affect or modify the provisions of sec-  
15 tion 514 with respect to group health plans.

16 “(f) DEFINITIONS.—In this section:

17 “(1) AUTISM SPECTRUM DISORDERS.—The  
18 term ‘autism spectrum disorders’ means develop-  
19 mental disabilities that cause substantial impair-  
20 ments in the areas of social interaction, emotional  
21 regulation, communication, and the integration of  
22 higher-order cognitive processes and are often char-  
23 acterized by the presence of unusual behaviors and  
24 interests. Such term includes autistic disorder, per-  
25 vasive developmental disorder (not otherwise speci-

1       fied), Asperger’s syndrome, Retts disorder, and  
2       childhood disintegrative disorder.

3               “(2) DIAGNOSIS OF AUTISM SPECTRUM DIS-  
4       ORDERS.—The term ‘diagnosis of autism spectrum  
5       disorders’ means medically necessary assessments,  
6       evaluations, or tests to diagnose whether an indi-  
7       vidual has an autism spectrum disorder.

8               “(3) TREATMENT OF AUTISM SPECTRUM DIS-  
9       ORDERS.—The term ‘treatment of autism spectrum  
10      disorders’ means the following care prescribed, pro-  
11      vided, or ordered for an individual diagnosed with an  
12      autism spectrum disorder by a physician, psycholo-  
13      gist, or other qualified professional who determines  
14      the care to be medically necessary:

15               “(A) Medications prescribed by a physician  
16      and any health-related services necessary to de-  
17      termine the need or effectiveness of the medica-  
18      tions.

19               “(B) Occupational therapy, physical ther-  
20      apy, and speech therapy.

21               “(C) Direct or consultative services pro-  
22      vided by a psychiatrist or psychologist.

23               “(D) Professional, counseling, and guid-  
24      ance services and treatment programs, includ-  
25      ing applied behavior analysis and other struc-

1           tured behavioral programs. In this subpara-  
2           graph, the term ‘applied behavior analysis’  
3           means the design, implementation and evalua-  
4           tion of environmental modifications, using be-  
5           havioral stimuli and consequences, to produce  
6           socially significant improvement in human be-  
7           havior, including the use of direct observation,  
8           measurement, and functional analysis of the re-  
9           lations between environment and behavior.”.

10           (2) CLERICAL AMENDMENT.—The table of con-  
11           tents in section 1 of the Employee Retirement In-  
12           come Security Act of 1974 (29 U.S.C. 1001 note) is  
13           amended by inserting after the item relating to sec-  
14           tion 713 the following:

“Sec. 714. Required coverage for autism spectrum disorders.”.

15           (b) PUBLIC HEALTH SERVICE ACT.—

16           (1) GROUP MARKET.—Subpart 2 of part A of  
17           title XXVII of the Public Health Service Act (42  
18           U.S.C. 300gg-4 et seq.) is amended by adding at the  
19           end the following:

20           **“SEC. 2707. REQUIRED COVERAGE FOR AUTISM SPECTRUM**  
21           **DISORDERS.**

22           “(a) IN GENERAL.—A group health plan, and a  
23           health insurance issuer providing health insurance cov-  
24           erage in connection with a group health plan, shall provide

1 coverage for the diagnosis of autism spectrum disorders  
2 and the treatment of autism spectrum disorders.

3 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-  
4 tion shall be construed—

5 “(1) as preventing a group health plan or  
6 health insurance issuer from imposing deductibles,  
7 coinsurance, or other cost-sharing in relation to ben-  
8 efits for the diagnosis and treatment of autism spec-  
9 trum disorders, except that such coinsurance or  
10 other cost-sharing for any such benefits may not be  
11 greater than such coinsurance or cost-sharing for  
12 any other benefit; and

13 “(2) to prevent a group health plan or a health  
14 insurance issuer from negotiating the level and type  
15 of reimbursement with a provider for care provided  
16 in accordance with this section.

17 “(c) NOTICE UNDER GROUP HEALTH PLAN.—The  
18 imposition of the requirements of this section shall be  
19 treated as a material modification in the terms of the plan  
20 described in section 102(a)(1), for purposes of assuring  
21 notice of such requirements under the plan, except that  
22 the summary description required to be provided under the  
23 last sentence of section 104(b)(1) with respect to such  
24 modification shall be provided not later than the earlier  
25 of—

1           “(1) by not later than 60 days after the first  
2           day of the first plan year in which such require-  
3           ments apply;

4           “(2) in the next mailing made by the plan or  
5           issuer to the enrollee; or

6           “(3) January 1, 2010.

7           “(d) PROHIBITIONS.—A group health plan, and a  
8           health insurance issuer offering group health insurance  
9           coverage in connection with a group health plan, shall  
10          not—

11           “(1) deny to an individual eligibility, or contin-  
12           ued eligibility, to enroll or to renew coverage under  
13           the terms of the plan, solely for the purpose of  
14           avoiding the requirements of this section; or

15           “(2) deny coverage otherwise available under  
16           this section on the basis that coverage is necessary  
17           to develop, maintain, or restore skills or functioning,  
18           or to prevent the loss of skills or functioning.

19           “(e) PREEMPTION; RELATION TO STATE LAW.—

20           “(1) IN GENERAL.—Nothing in this section  
21           shall be construed to preempt any State law with re-  
22           spect to health insurance coverage that requires cov-  
23           erage of at least the coverage for autism spectrum  
24           disorders otherwise required under this section.

1           “(2) ERISA.—Nothing in this section shall be  
2 construed to affect or modify the provisions of sec-  
3 tion 514 with respect to group health plans.

4           “(f) DEFINITIONS.—In this section:

5           “(1) AUTISM SPECTRUM DISORDERS.—The  
6 term ‘autism spectrum disorders’ means develop-  
7 mental disabilities that cause substantial impair-  
8 ments in the areas of social interaction, emotional  
9 regulation, communication, and the integration of  
10 higher-order cognitive processes and are often char-  
11 acterized by the presence of unusual behaviors and  
12 interests. Such term includes autistic disorder, per-  
13 vasive developmental disorder (not otherwise speci-  
14 fied), and Asperger’s syndrome.

15           “(2) DIAGNOSIS OF AUTISM SPECTRUM DIS-  
16 ORDERS.—The term ‘diagnosis of autism spectrum  
17 disorders’ means medically necessary assessments,  
18 evaluations, or tests to diagnose whether an indi-  
19 vidual has an autism spectrum disorder.

20           “(3) TREATMENT OF AUTISM SPECTRUM DIS-  
21 ORDERS.—The term ‘treatment of autism spectrum  
22 disorders’ means the following care prescribed, pro-  
23 vided, or ordered for an individual diagnosed with an  
24 autism spectrum disorder by a physician, psycholo-

1       gist, or other qualified professional who determines  
2       the care to be medically necessary:

3               “(A) Medications prescribed by a physician  
4               and any health-related services necessary to de-  
5               termine the need or effectiveness of the medica-  
6               tions.

7               “(B) Occupational therapy, physical ther-  
8               apy, and speech therapy.

9               “(C) Direct or consultative services pro-  
10              vided by a psychiatrist or psychologist.

11              “(D) Professional, counseling, and guid-  
12              ance services and treatment programs, includ-  
13              ing applied behavior analysis and other struc-  
14              tured behavioral programs. In this subpara-  
15              graph, the term ‘applied behavior analysis’  
16              means the design, implementation and evalua-  
17              tion of environmental modifications, using be-  
18              havioral stimuli and consequences, to produce  
19              socially significant improvement in human be-  
20              havior, including the use of direct observation,  
21              measurement, and functional analysis of the re-  
22              lations between environment and behavior.”.

23              (2) INDIVIDUAL MARKET.—Subpart 3 of part B  
24              of title XXVII of the Public Health Service Act (42

1 U.S.C. 300gg-51 et seq.) is amended by adding at  
2 the end the following:

3 **“SEC. 2754. REQUIRED COVERAGE FOR AUTISM SPECTRUM**  
4 **DISORDERS.**

5 “The provisions of section 2707 shall apply to health  
6 insurance coverage offered by a health insurance issuer  
7 in the individual market in the same manner as they apply  
8 to health insurance coverage offered by a health insurance  
9 issuer in connection with a group health plan in the small  
10 or large group market.”.

11 (c) **EFFECTIVE DATES.—**

12 (1) **GROUP HEALTH PLANS.—**

13 (A) **IN GENERAL.—**The amendment made  
14 by subsection (a) shall apply to group health  
15 plans for plan years beginning on or after the  
16 date of enactment of this Act.

17 (B) **SPECIAL RULE FOR COLLECTIVE BAR-**  
18 **GAINING AGREEMENTS.—**In the case of a group  
19 health plan maintained pursuant to 1 or more  
20 collective bargaining agreements between em-  
21 ployee representatives and 1 or more employers,  
22 any plan amendment made pursuant to a collec-  
23 tive bargaining agreement relating to the plan  
24 which amends the plan solely to conform to any  
25 requirement added by the amendment made by

1 subsection (a) shall not be treated as a termi-  
2 nation of such collective bargaining agreement.

3 (2) INDIVIDUAL PLANS.—The amendment made  
4 by subsection (b) shall apply with respect to health  
5 insurance coverage offered, sold, issued, renewed, in  
6 effect, or operated in the individual market on or  
7 after the date of enactment of this Act.