

Act No. 100
Public Acts of 2012
Approved by the Governor
April 18, 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Hunter, Caswell, Richardville, Emmons, Gleason, Smith, Whitmer, Bieda, Young, Hood, Gregory, Johnson, Pappageorge, Booher, Warren, Anderson, Green, Hopgood, Kowall and Marleau

ENROLLED SENATE BILL No. 415

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 3406s.

The People of the State of Michigan enact:

Sec. 3406s. (1) Except as otherwise provided in this section, an expense-incurred hospital, medical, or surgical group or individual policy or certificate delivered, issued for delivery, or renewed in this state and a health maintenance

organization group or individual contract shall provide coverage for the diagnosis of autism spectrum disorders and treatment of autism spectrum disorders. An insurer and a health maintenance organization shall not do any of the following:

(a) Terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage solely because an individual is diagnosed with, or has received treatment for, an autism spectrum disorder.

(b) Limit the number of visits an insured or enrollee may use for treatment of autism spectrum disorders covered under this section.

(c) Deny or limit coverage under this section on the basis that treatment is educational or habilitative in nature.

(d) Except as otherwise provided in this subdivision, subject coverage under this section to dollar limits, copays, deductibles, or coinsurance provisions that do not apply to physical illness generally. Coverage under this section for treatment of autism spectrum disorders may be limited to an insured or enrollee through 18 years of age and may be subject to a maximum annual benefit as follows:

(i) For a covered insured or enrollee through 6 years of age, \$50,000.00.

(ii) For a covered insured or enrollee from 7 years of age through 12 years of age, \$40,000.00.

(iii) For a covered insured or enrollee from 13 years of age through 18 years of age, \$30,000.00.

(2) This section does not limit benefits that are otherwise available to an insured or enrollee under a policy, contract, or certificate. An insurer or health maintenance organization shall utilize evidence-based care and managed care cost-containment practices pursuant to the insurer's or health maintenance organization's procedures so long as that care and those practices are consistent with this section. The coverage under this section may be subject to other general exclusions and limitations of the policy, contract, or certificate, including, but not limited to, coordination of benefits, participating provider requirements, restrictions on services provided by family or household members, utilization review of health care services including review of medical necessity, case management, and other managed care provisions.

(3) If an insured or enrollee is receiving treatment for an autism spectrum disorder, an insurer or health maintenance organization may, as a condition to providing the coverage under this section, do all of the following:

(a) Require a review of that treatment consistent with current protocols and may require a treatment plan. If requested by the insurer or health maintenance organization, the cost of treatment review shall be borne by the insurer or health maintenance organization.

(b) Request the results of the autism diagnostic observation schedule that has been used in the diagnosis of an autism spectrum disorder for that insured or enrollee.

(c) Request that the autism diagnostic observation schedule be performed on that insured or enrollee not more frequently than once every 3 years.

(d) Request that an annual development evaluation be conducted and the results of that annual development evaluation be submitted to the insurer or health maintenance organization.

(4) Beginning January 1, 2014, a qualified health plan offered through an American health benefit exchange established in this state pursuant to the federal act is not required to provide coverage under this section to the extent that it exceeds coverage that is included in the essential health benefits as required pursuant to the federal act. As used in this subsection, "federal act" means the federal patient protection and affordable care act, Public Law 111-148, as amended by the federal health care and education reconciliation act of 2010, Public Law 111-152, and any regulations promulgated under those acts.

(5) This section does not apply to a short-term or 1-time limited duration policy or certificate of no longer than 6 months as described in section 2213b.

(6) This section does not require the coverage of prescription drugs and related services unless the insured or enrollee is covered by a prescription drug plan. This section does not require an insurer or health maintenance organization to provide coverage for autism spectrum disorders to an insured or enrollee under more than 1 of its policies, certificates, or contracts. If an insured or enrollee has more than 1 policy, certificate, or contract that covers autism spectrum disorders, the benefits provided are subject to the limits of this section when coordinating benefits.

(7) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(b) "Autism diagnostic observation schedule" means the protocol available through western psychological services for diagnosing and assessing autism spectrum disorders or any other standardized diagnostic measure for autism

spectrum disorders that is approved by the commissioner, if the commissioner determines that the diagnostic measure is recognized by the health care industry and is an evidence-based diagnostic tool.

(c) “Autism spectrum disorders” means any of the following pervasive developmental disorders as defined by the diagnostic and statistical manual:

- (i) Autistic disorder.
- (ii) Asperger’s disorder.
- (iii) Pervasive developmental disorder not otherwise specified.

(d) “Behavioral health treatment” means evidence-based counseling and treatment programs, including applied behavior analysis, that meet both of the following requirements:

- (i) Are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.
- (ii) Are provided or supervised by a board certified behavior analyst or a licensed psychologist so long as the services performed are commensurate with the psychologist’s formal university training and supervised experience.

(e) “Diagnosis of autism spectrum disorders” means assessments, evaluations, or tests, including the autism diagnostic observation schedule, performed by a licensed physician or a licensed psychologist to diagnose whether an individual has 1 of the autism spectrum disorders.

(f) “Diagnostic and statistical manual” or “DSM” means the diagnostic and statistical manual of mental disorders published by the American psychiatric association or other manual that contains common language and standard criteria for the classification of mental disorders and that is approved by the commissioner, if the commissioner determines that the manual is recognized by the health care industry and the classification of mental disorders is at least as comprehensive as the manual published by the American psychiatric association on the effective date of this section.

(g) “Pharmacy care” means medications prescribed by a licensed physician and related services performed by a licensed pharmacist and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(h) “Psychiatric care” means evidence-based direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(i) “Psychological care” means evidence-based direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(j) “Therapeutic care” means evidence-based services provided by a licensed or certified speech therapist, occupational therapist, physical therapist, or social worker.

(k) “Treatment of autism spectrum disorders” means evidence-based treatment that includes the following care prescribed or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary:

- (i) Behavioral health treatment.
- (ii) Pharmacy care.
- (iii) Psychiatric care.
- (iv) Psychological care.
- (v) Therapeutic care.

(l) “Treatment plan” means a written, comprehensive, and individualized intervention plan that incorporates specific treatment goals and objectives and that is developed by a board certified or licensed provider who has the appropriate credentials and who is operating within his or her scope of practice, when the treatment of an autism spectrum disorder is first prescribed or ordered by a licensed physician or licensed psychologist as described in subdivision (k).

Enacting section 1. This amendatory act applies to policies, certificates, and contracts delivered, executed, issued, amended, adjusted, or renewed in this state, or outside of this state if covering residents of this state, beginning 180 days after the date this amendatory act is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

- (a) Senate Bill No. 414.
- (b) Senate Bill No. 981.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor