

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2693**

4 (By Delegates Fleischauer, Ellem, Overington,  
5 Hunt, Skaff, Lane and Rodighiero)

6 (Originating in the Committee on Finance)

7 [February 4, 2011]

8  
9  
10 A BILL to amend and reenact §5-16-7 of the code of West Virginia,  
11 1931, as amended; to amend said code by adding thereto a new  
12 section, designated §5-16B-6e; to amend said code by adding  
13 thereto a new section, designated §9-5-21; to amend said code  
14 by adding thereto a new section, designated §33-15-4k; to  
15 amend said code by adding thereto a new section, designated  
16 §33-16-3v; to amend said code by adding thereto a new section,  
17 designated §33-24-7k; and to amend said code by adding  
18 thereto a new section, designated §33-25A-8j, all relating to  
19 requiring insurance coverage for autism spectrum disorders;  
20 providing definitions; and providing reporting requirements by  
21 state agencies.

22 *Be it enacted by the Legislature of West Virginia:*

23 That §5-16-7 of the Code of West Virginia, 1931, as amended,  
24 be amended and reenacted; that said code be amended by adding  
25 thereto a new section, designated §5-16B-6e; that said code be  
26 amended by adding thereto a new section, designated §9-5-21; that

1 said code be amended by adding thereto a new section, designated  
2 §33-15-4k; that said code be amended by adding thereto a new  
3 section, designated §33-16-3v; that said code be amended by adding  
4 thereto a new section, designated §33-24-7k; that said code be  
5 amended by adding thereto a new section, designated §33-25A-8j, all  
6 to read as follows:

7           **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**  
8                   **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD**  
9           **OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS,**  
10                   **OFFICES, PROGRAMS, ETC.**

11 **ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

12 **§5-16-7. Authorization to establish group hospital and surgical**  
13           **insurance plan, group major medical insurance plan,**  
14           **group prescription drug plan and group life and**  
15           **accidental death insurance plan; rules for**  
16           **administration of plans; mandated benefits; what plans**  
17           **may provide; optional plans; separate rating for**  
18           **claims experience purposes.**

19           (a) The agency shall establish a group hospital and surgical  
20 insurance plan or plans, a group prescription drug insurance plan  
21 or plans, a group major medical insurance plan or plans and a group  
22 life and accidental death insurance plan or plans for those  
23 employees herein made eligible, and to establish and promulgate  
24 rules for the administration of these plans, subject to the  
25 limitations contained in this article. Those plans shall include:

1           (1) Coverages and benefits for X ray and laboratory services  
2 in connection with mammograms when medically appropriate and  
3 consistent with current guidelines from the United States  
4 Preventive Services Task Force; pap smears, either conventional or  
5 liquid-based cytology, whichever is medically appropriate and  
6 consistent with the current guidelines from either the United  
7 States Preventive Services Task Force or The American College of  
8 Obstetricians and Gynecologists; and a test for the human papilloma  
9 virus (HPV) when medically appropriate and consistent with current  
10 guidelines from either the United States Preventive Services Task  
11 Force or The American College of Obstetricians and Gynecologists,  
12 when performed for cancer screening or diagnostic services on a  
13 woman age eighteen or over;

14           (2) Annual checkups for prostate cancer in men age fifty and  
15 over;

16           (3) Annual screening for kidney disease as determined to be  
17 medically necessary by a physician using any combination of blood  
18 pressure testing, urine albumin or urine protein testing and serum  
19 creatinine testing as recommended by the National Kidney  
20 Foundation;

21           (4) For plans that include maternity benefits, coverage for  
22 inpatient care in a duly licensed health care facility for a mother  
23 and her newly born infant for the length of time which the  
24 attending physician considers medically necessary for the mother or  
25 her newly born child: *Provided*, That no plan may deny payment for  
26 a mother or her newborn child prior to forty-eight hours following

1 a vaginal delivery, or prior to ninety-six hours following a  
2 caesarean section delivery, if the attending physician considers  
3 discharge medically inappropriate;

4 (5) For plans which provide coverages for post-delivery care  
5 to a mother and her newly born child in the home, coverage for  
6 inpatient care following childbirth as provided in subdivision (4)  
7 of this subsection if inpatient care is determined to be medically  
8 necessary by the attending physician. Those plans may also  
9 include, among other things, medicines, medical equipment,  
10 prosthetic appliances and any other inpatient and outpatient  
11 services and expenses considered appropriate and desirable by the  
12 agency; and

13 (6) Coverage for treatment of serious mental illness.

14 (A) The coverage does not include custodial care, residential  
15 care or schooling. For purposes of this section, "serious mental  
16 illness" means an illness included in the American Psychiatric  
17 Association's diagnostic and statistical manual of mental  
18 disorders, as periodically revised, under the diagnostic categories  
19 or subclassifications of: (i) Schizophrenia and other psychotic  
20 disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv)  
21 substance-related disorders with the exception of caffeine-related  
22 disorders and nicotine-related disorders; (v) anxiety disorders;  
23 and (vi) anorexia and bulimia. With regard to any covered  
24 individual who has not yet attained the age of nineteen years,  
25 "serious mental illness" also includes attention deficit  
26 hyperactivity disorder, separation anxiety disorder and conduct

1 disorder.

2 (B) Notwithstanding any other provision in this section to the  
3 contrary, in the event that the agency can demonstrate that its  
4 total costs for the treatment of mental illness for any plan  
5 exceeded two percent of the total costs for such plan in any  
6 experience period, then the agency may apply whatever additional  
7 cost-containment measures may be necessary, including, but not  
8 limited to, limitations on inpatient and outpatient benefits, to  
9 maintain costs below two percent of the total costs for the plan  
10 for the next experience period.

11 (C) The agency shall not discriminate between medical-surgical  
12 benefits and mental health benefits in the administration of its  
13 plan. With regard to both medical-surgical and mental health  
14 benefits, it may make determinations of medical necessity and  
15 appropriateness, and it may use recognized health care quality and  
16 cost management tools, including, but not limited to, limitations  
17 on inpatient and outpatient benefits, utilization review, case  
18 management, implementation of cost-containment measures,  
19 preauthorization for certain treatments, setting coverage levels,  
20 setting maximum number of visits within certain time periods, using  
21 capitated benefit arrangements, using fee-for-service arrangements,  
22 using third-party administrators, using provider networks and using  
23 patient cost sharing in the form of copayments, deductibles and  
24 coinsurance.

25 (7) Coverage for general anesthesia for dental procedures and  
26 associated outpatient hospital or ambulatory facility charges

1 provided by appropriately licensed health care individuals in  
2 conjunction with dental care if the covered person is:

3 (A) Seven years of age or younger or is developmentally  
4 disabled, and is an individual for whom a successful result cannot  
5 be expected from dental care provided under local anesthesia  
6 because of a physical, intellectual or other medically compromising  
7 condition of the individual and for whom a superior result can be  
8 expected from dental care provided under general anesthesia;

9 (B) A child who is twelve years of age or younger with  
10 documented phobias, or with documented mental illness, and with  
11 dental needs of such magnitude that treatment should not be delayed  
12 or deferred and for whom lack of treatment can be expected to  
13 result in infection, loss of teeth or other increased oral or  
14 dental morbidity and for whom a successful result cannot be  
15 expected from dental care provided under local anesthesia because  
16 of such condition and for whom a superior result can be expected  
17 from dental care provided under general anesthesia.

18 (8) (A) Coverage for diagnosis and treatment of autism spectrum  
19 disorder in individuals ages three through eighteen years. Such  
20 policy shall provide coverage for treatments that are medically  
21 necessary and ordered or prescribed by a licensed physician or  
22 licensed psychologist for an individual diagnosed with autism  
23 spectrum disorder, in accordance with a treatment plan developed by  
24 a licensed physician or licensed psychologist pursuant to a  
25 comprehensive evaluation or reevaluation of the individual. Such  
26 coverage shall include, but not be limited to, applied behavioral

1 analysis provided by a board certified behavior analyst: *Provided,*  
2 That the annual maximum benefit for applied behavioral analysis for  
3 autism spectrum disorder for individuals ages three through six  
4 years required by this subdivision shall be in amount not to exceed  
5 \$30,000 per individual. For individuals ages seven through eighteen  
6 years, coverage for applied behavior analysis shall be in an amount  
7 not to exceed \$1,000 per month, as long as the treatment is  
8 medically necessary and in accordance with a treatment plan  
9 developed by a licensed physician or licensed psychologist pursuant  
10 to a comprehensive evaluation or reevaluation of the individual.  
11 This section shall not be construed as limiting, replacing or  
12 affecting any obligation to provide services to an individual under  
13 the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et  
14 seq., as amended from time to time or other publicly funded  
15 programs. Nothing in this section shall be construed as requiring  
16 coverage of benefits for services that are or should be included in  
17 an individualized family service plan or individualized education  
18 program or individualized service plan or other publicly funded  
19 programs, including but not limited to reimbursement for services  
20 provided at public schools.

21 (B) On or before January 1 each year, the agency shall file an  
22 annual report with the joint committee on government and finance  
23 describing its implementation of the coverage provided pursuant to  
24 this subdivision. The report shall include, but shall not be  
25 limited to the number of individuals in the plan utilizing the  
26 coverage required by this subdivision, the fiscal and

1 administrative impact of the implementation, and any  
2 recommendations the agency may have as to changes in law or policy  
3 related to the coverage provided under this subdivision. In  
4 addition, the agency shall provide such other information as may be  
5 provided by the joint committee on government and finance as it may  
6 from time to time request.

7 (C) For purposes of this subdivision, the term:

8 (1) "Applied Behavior Analysis" means the design,  
9 implementation, and evaluation of environmental modifications using  
10 behavioral stimuli and consequences, to produce socially  
11 significant improvement in human behavior, including the use of  
12 direct observation, measurement, and functional analysis of the  
13 relationship between environment and behavior.

14 (2) "Autism spectrum disorder" means any pervasive  
15 developmental disorder, including autistic disorder, Asperger's  
16 Syndrome, Rett syndrome, childhood disintegrative disorder, or  
17 Pervasive Development Disorder - Not otherwise specified as, as  
18 defined in the most recent edition of the Diagnostic and  
19 Statistical Manual of Mental Disorders of the American Psychiatric  
20 Association.

21 (3) "Board certified behavior analyst" means an individual who  
22 is certified by the Behavior Analyst Certification Board or  
23 certified by a similar nationally recognized organization.

24 (b) The agency shall make available to each eligible employee,  
25 at full cost to the employee, the opportunity to purchase optional  
26 group life and accidental death insurance as established under the



1 rules of the agency. In addition, each employee is entitled to  
2 have his or her spouse and dependents, as defined by the rules of  
3 the agency, included in the optional coverage, at full cost to the  
4 employee, for each eligible dependent; and with full authorization  
5 to the agency to make the optional coverage available and provide  
6 an opportunity of purchase to each employee.

7 (c) The finance board may cause to be separately rated for  
8 claims experience purposes:

9 (1) All employees of the State of West Virginia;

10 (2) All teaching and professional employees of state public  
11 institutions of higher education and county boards of education;

12 (3) All nonteaching employees of the Higher Education Policy  
13 Commission, West Virginia Council for Community and Technical  
14 College Education and county boards of education; or

15 (4) Any other categorization which would ensure the stability  
16 of the overall program.

17 (d) The agency shall maintain the medical and prescription  
18 drug coverage for Medicare-eligible retirees by providing coverage  
19 through one of the existing plans or by enrolling the Medicare-  
20 eligible retired employees into a Medicare-specific plan,  
21 including, but not limited to, the Medicare/Advantage Prescription  
22 Drug Plan. In the event that a Medicare-specific plan would no  
23 longer be available or advantageous for the agency and the  
24 retirees, the retirees shall remain eligible for coverage through  
25 the agency.

26 **ARTICLE 16B. WEST VIRGINIA CHILDREN'S HEALTH INSURANCE PROGRAM.**

1 **§5-16B-6e. Coverage for treatment of autism spectrum disorders.**

2 (a) To the extent that the diagnosis and treatment of autism  
3 spectrum disorders are not already covered by this agency, a  
4 policy, plan or contract subject to this section shall provide  
5 coverage for such diagnosis and treatment, for individuals ages  
6 three through eighteen years. Such policy shall provide coverage  
7 for treatments that are medically necessary and ordered or  
8 prescribed by a licensed physician or licensed psychologist for an  
9 individual diagnosed with autism spectrum disorder, in accordance  
10 with a treatment plan developed by a licensed physician or licensed  
11 psychologist pursuant to a comprehensive evaluation or reevaluation  
12 of the individual. Such coverage shall include, but not be limited  
13 to, applied behavioral analysis provided by a board certified  
14 behavior analyst: *Provided*, That the annual maximum benefit for  
15 applied behavioral analysis for autism spectrum disorder required  
16 for individuals ages three through six years by this section shall  
17 be in amount not to exceed \$30,000 per individual. For individuals  
18 ages seven through eighteen years, coverage for applied behavior  
19 analysis shall be in an amount not to exceed \$1,000 per month, as  
20 long as the treatment is medically necessary and in accordance with  
21 a treatment plan developed by a licensed physician or licensed  
22 psychologist pursuant to a comprehensive evaluation or reevaluation  
23 of the individual. Nothing in this section shall be construed to  
24 require or permit the agency to reduce benefits for autism spectrum  
25 disorders already provided that exceed the limits of this section.  
26 This section shall not be construed as limiting, replacing or

1 affecting any obligation to provide services to an individual under  
2 the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et  
3 seq., as amended from time to time or other publicly funded  
4 programs. Nothing in this section shall be construed as requiring  
5 coverage of benefits for services that are or should be included in  
6 an individualized family service plan or individualized education  
7 program or individualized service plan or other publicly funded  
8 programs, including but not limited to reimbursement for services  
9 provided at public schools.

10 (b) On or before January 1 each year, the agency shall file an  
11 annual report with the joint committee on government and finance  
12 describing its implementation of the coverage provided pursuant to  
13 this section. The report shall include, but shall not be limited to  
14 the number of individuals in the plan utilizing the coverage  
15 required by this section, the fiscal and administrative impact of  
16 the implementation, and any recommendations the agency may have as  
17 to changes in law or policy related to the coverage provided under  
18 this section. In addition, the agency shall provide such other  
19 information as may be provided by the joint committee on government  
20 and finance as it may from time to time request.

21 (c) For purposes of this section, the term:

22 (1) "Applied Behavior Analysis" means the design,  
23 implementation, and evaluation of environmental modifications using  
24 behavioral stimuli and consequences, to produce socially  
25 significant improvement in human behavior, including the use of  
26 direct observation, measurement, and functional analysis of the

1 relationship between environment and behavior.

2 (2) "Autism spectrum disorder" means any pervasive  
3 developmental disorder, including autistic disorder, Asperger's  
4 Syndrome, Rett syndrome, childhood disintegrative disorder, or  
5 Pervasive Development Disorder - Not otherwise specified as, as  
6 defined in the most recent edition of the Diagnostic and  
7 Statistical Manual of Mental Disorders of the American Psychiatric  
8 Association.

9 (3) "Board certified behavior analyst" means an individual who  
10 is certified by the Behavior Analyst Certification Board or  
11 certified by a similar nationally recognized organization.

## 12 **CHAPTER 9. HUMAN SERVICES.**

### 13 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

#### 14 **§9-5-21. Annual report to joint committee on government and finance** 15 **regarding treatment for autism spectrum disorders** 16 **provided by the Bureau for Medical Services.**

17 (a) On or before January 1 each year, the agency shall file an  
18 annual report with the joint committee on government and finance  
19 describing the number of enrolled individuals with autism spectrum  
20 disorder, including the fiscal and administrative impact of  
21 treatment of autism spectrum disorders, and any recommendations the  
22 agency may have as to changes in law or policy related to such  
23 disorder. In addition, the agency shall provide such other  
24 information as may be provided by the joint committee on government  
25 and finance as it may from time to time request.

1 (b) For purposes of this section, the term "autism spectrum  
2 disorder" means any pervasive developmental disorder, including  
3 autistic disorder, Asperger's Syndrome, Rett syndrome, childhood  
4 disintegrative disorder, or Pervasive Development Disorder - Not  
5 otherwise specified as, as defined in the most recent edition of  
6 the Diagnostic and Statistical Manual of Mental Disorders of the  
7 American Psychiatric Association.

8 **CHAPTER 33. INSURANCE.**

9 **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

10 **§33-15-4k. Required coverage for treatment of autism spectrum**  
11 **disorders.**

12 (a) Notwithstanding any provision of any policy, provision,  
13 contract, plan or agreement applicable to this article, any entity  
14 regulated by this article shall, for policies issued or renewed on  
15 or after September 1, 2011, make available as benefits to all  
16 subscribers and members coverage for diagnosis and treatment of  
17 autism spectrum disorder in individuals ages three through eighteen  
18 years. Such policy shall provide coverage for treatments that are  
19 medically necessary and ordered or prescribed by a licensed  
20 physician or licensed psychologist for an individual diagnosed with  
21 autism spectrum disorder, in accordance with a treatment plan  
22 developed by a licensed physician or licensed psychologist pursuant  
23 to a comprehensive evaluation or reevaluation of the individual.  
24 Such coverage shall include, but not be limited to, applied  
25 behavioral analysis provided by a board certified behavior analyst:

1 Provided, That the annual maximum benefit for applied behavioral  
2 analysis for autism spectrum disorder for individuals ages three  
3 through six years required by this subsection shall be in amount  
4 not to exceed \$30,000 per individual. For individuals ages seven  
5 through eighteen years, coverage for applied behavior analysis  
6 shall be in an amount not to exceed \$1,000 per month, as long as  
7 the treatment is medically necessary and in accordance with a  
8 treatment plan developed by a licensed physician or licensed  
9 psychologist pursuant to a comprehensive evaluation or reevaluation  
10 of the individual. Nothing in this section shall be construed to  
11 require or permit the agency to reduce benefits for autism spectrum  
12 disorders already provided that exceed the limits of this section.  
13 This section shall not be construed as limiting, replacing or  
14 affecting any obligation to provide services to an individual under  
15 the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et  
16 seq., as amended from time to time or other publicly funded  
17 programs. Nothing in this section shall be construed as requiring  
18 coverage of benefits for services that are or should be included in  
19 an individualized family service plan or individualized education  
20 program or individualized service plan or other publicly funded  
21 programs, including but not limited to reimbursement for services  
22 provided at public schools.

23 (b) For purposes of this section, the term:

24 (1) "Applied Behavior Analysis" means the design,  
25 implementation, and evaluation of environmental modifications using  
26 behavioral stimuli and consequences, to produce socially

1 significant improvement in human behavior, including the use of  
2 direct observation, measurement, and functional analysis of the  
3 relationship between environment and behavior.

4 (2) "Autism spectrum disorder" means any pervasive  
5 developmental disorder, including autistic disorder, Asperger's  
6 Syndrome, Rett syndrome, childhood disintegrative disorder, or  
7 Pervasive Development Disorder - Not otherwise specified as, as  
8 defined in the most recent edition of the Diagnostic and  
9 Statistical Manual of Mental Disorders of the American Psychiatric  
10 Association.

11 (3) "Board certified behavior analyst" means an individual who  
12 is certified by the Behavior Analyst Certification Board or  
13 certified by a similar nationally recognized organization.

14 **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

15 **§33-16-3v. Required coverage for treatment of autism spectrum**  
16 **disorders.**

17 (a) Any insurer who, on or after September 1, 2011, delivers,  
18 renews or issues a policy of group accident and sickness insurance  
19 in this State under the provisions of this article, shall make  
20 available as benefits to all subscribers and members coverage for  
21 diagnosis and treatment of autism spectrum disorder in individuals  
22 ages three through eighteen years. Such policy shall provide  
23 coverage for treatments that are medically necessary and ordered or  
24 prescribed by a licensed physician or licensed psychologist for an  
25 individual diagnosed with autism spectrum disorder, in accordance

1 with a treatment plan developed by a licensed physician or licensed  
2 psychologist pursuant to a comprehensive evaluation or reevaluation  
3 of the individual. Such coverage shall include, but not be limited  
4 to, applied behavioral analysis provided by a board certified  
5 behavior analyst: *Provided*, That the annual maximum benefit for  
6 applied behavioral analysis for autism spectrum disorder for  
7 individuals ages three through six years required by this  
8 subsection shall be in amount not to exceed \$30,000 per individual.  
9 For individuals ages seven through eighteen years, coverage for  
10 applied behavior analysis shall be in an amount not to exceed  
11 \$1,000 per month, as long as the treatment is medically necessary  
12 and in accordance with a treatment plan developed by a licensed  
13 physician or licensed psychologist pursuant to a comprehensive  
14 evaluation or reevaluation of the individual. Nothing in this  
15 section shall be construed to require or permit the agency to  
16 reduce benefits for autism spectrum disorders already provided that  
17 exceed the limits of this section. This section shall not be  
18 construed as limiting, replacing or affecting any obligation to  
19 provide services to an individual under the Individuals with  
20 Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended from  
21 time to time or other publicly funded programs. Nothing in this  
22 section shall be construed as requiring coverage of benefits for  
23 services that are or should be included in an individualized family  
24 service plan or individualized education program or individualized  
25 service plan or other publicly funded programs, including but not  
26 limited to reimbursement for services provided at public schools.



1 (b) For purposes of this section, the term:

2 (1) "Applied Behavior Analysis" means the design,  
3 implementation, and evaluation of environmental modifications using  
4 behavioral stimuli and consequences, to produce socially  
5 significant improvement in human behavior, including the use of  
6 direct observation, measurement, and functional analysis of the  
7 relationship between environment and behavior.

8 (2) "Autism spectrum disorder" means any pervasive  
9 developmental disorder, including autistic disorder, Asperger's  
10 Syndrome, Rett syndrome, childhood disintegrative disorder, or  
11 Pervasive Development Disorder - Not otherwise specified as, as  
12 defined in the most recent edition of the Diagnostic and  
13 Statistical Manual of Mental Disorders of the American Psychiatric  
14 Association.

15 (3) "Board certified behavior analyst" means an individual who  
16 is certified by the Behavior Analyst Certification Board or  
17 certified by a similar nationally recognized organization.

18 **ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.**

19 **§33-24-7k. Coverage for diagnosis and treatment of autism spectrum**  
20 **disorders.**

21 (a) Notwithstanding any provision of any policy, provision,  
22 contract, plan or agreement to which this article applies, any  
23 entity regulated by this article, for policies issued or renewed  
24 on or before September 1, 2011, shall provide as benefits to its  
25 subscribers and members for coverage for diagnosis and treatment of

1 autism spectrum disorder in individuals ages three through eighteen  
2 years. Such policy shall provide coverage for treatments that are  
3 medically necessary and ordered or prescribed by a licensed  
4 physician or licensed psychologist for an individual diagnosed with  
5 autism spectrum disorder, in accordance with a treatment plan  
6 developed by a licensed physician or licensed psychologist pursuant  
7 to a comprehensive evaluation or reevaluation of the individual.  
8 Such coverage shall include, but not be limited to, applied  
9 behavioral analysis provided by a board certified behavior analyst:  
10 Provided, That the annual maximum benefit for applied behavioral  
11 analysis for autism spectrum disorder for individuals ages three  
12 through six years required by this subsection shall be in amount  
13 not to exceed \$30,000 per individual. For individuals ages seven  
14 through eighteen years, coverage for applied behavior analysis  
15 shall be in an amount not to exceed \$1,000 per month, as long as  
16 the treatment is medically necessary and in accordance with a  
17 treatment plan developed by a licensed physician or licensed  
18 psychologist pursuant to a comprehensive evaluation or reevaluation  
19 of the individual. This section shall not be construed as limiting,  
20 replacing or affecting any obligation to provide services to an  
21 individual under the Individuals with Disabilities Education Act,  
22 20 U.S.C. 1400 et seq., as amended from time to time or other  
23 publicly funded programs. Nothing in this section shall be  
24 construed as requiring coverage of benefits for services that are  
25 or should be included in an individualized family service plan or  
26 individualized education program or individualized service plan or

1 other publicly funded programs, including but not limited to  
2 reimbursement for services provided at public schools.

3 (b) For purposes of this section, the term:

4 (1) "Applied Behavior Analysis" means the design,  
5 implementation, and evaluation of environmental modifications using  
6 behavioral stimuli and consequences, to produce socially  
7 significant improvement in human behavior, including the use of  
8 direct observation, measurement, and functional analysis of the  
9 relationship between environment and behavior.

10 (2) "Autism spectrum disorder" means any pervasive  
11 developmental disorder, including autistic disorder, Asperger's  
12 Syndrome, Rett syndrome, childhood disintegrative disorder, or  
13 Pervasive Development Disorder - Not otherwise specified as, as  
14 defined in the most recent edition of the Diagnostic and  
15 Statistical Manual of Mental Disorders of the American Psychiatric  
16 Association.

17 (3) "Board certified behavior analyst" means an individual who  
18 is certified by the Behavior Analyst Certification Board or  
19 certified by a similar nationally recognized organization.

20 **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

21 **§33-25A-8j. Coverage for diagnosis and treatment of autism**  
22 **spectrum disorders.**

23 (a) Notwithstanding any provision of any policy, provision,  
24 contract, plan or agreement to which this article applies, for  
25 policies issued or renewed on or before September 1, 2011, any

1 entity regulated by this article shall provide as benefits to its  
2 subscribers and members for coverage for diagnosis and treatment of  
3 autism spectrum disorder in individuals ages three through eighteen  
4 years. Such policy shall provide coverage for treatments that are  
5 medically necessary and ordered or prescribed by a licensed  
6 physician or licensed psychologist for an individual diagnosed with  
7 autism spectrum disorder, in accordance with a treatment plan  
8 developed by a licensed physician or licensed psychologist pursuant  
9 to a comprehensive evaluation or reevaluation of the individual.  
10 Such coverage shall include, but not be limited to, applied  
11 behavioral analysis provided by a board certified behavior analyst:  
12 Provided, That the annual maximum benefit for applied behavioral  
13 analysis for autism spectrum disorder for individuals ages three  
14 through six years required by this subsection shall be in amount  
15 not to exceed \$30,000 per individual. For individuals ages seven  
16 through eighteen years, coverage for applied behavior analysis  
17 shall be in an amount not to exceed \$1,000 per month, as long as  
18 the treatment is medically necessary and in accordance with a  
19 treatment plan developed by a licensed physician or licensed  
20 psychologist pursuant to a comprehensive evaluation or reevaluation  
21 of the individual. This section shall not be construed as limiting,  
22 replacing or affecting any obligation to provide services to an  
23 individual under the Individuals with Disabilities Education Act,  
24 20 U.S.C. 1400 et seq., as amended from time to time or other  
25 publicly funded programs. Nothing in this section shall be  
26 construed as requiring coverage of benefits for services that are

1 or should be included in an individualized family service plan or  
2 individualized education program or individualized service plan or  
3 other publicly funded programs, including but not limited to  
4 reimbursement for services provided at public schools.

5 (b) For purposes of this section, the term:

6 (1) "Applied Behavior Analysis" means the design,  
7 implementation, and evaluation of environmental modifications using  
8 behavioral stimuli and consequences, to produce socially  
9 significant improvement in human behavior, including the use of  
10 direct observation, measurement, and functional analysis of the  
11 relationship between environment and behavior.

12 (2) "Autism spectrum disorder" means any pervasive  
13 developmental disorder, including autistic disorder, Asperger's  
14 Syndrome, Rett syndrome, childhood disintegrative disorder, or  
15 Pervasive Development Disorder - Not otherwise specified as, as  
16 defined in the most recent edition of the Diagnostic and  
17 Statistical Manual of Mental Disorders of the American Psychiatric  
18 Association.

19 (3) "Board certified behavior analyst" means an individual who  
20 is certified by the Behavior Analyst Certification Board or  
21 certified by a similar nationally recognized organization.