

SENATE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chairman of Committee

March 19, 2009  
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

SB09-244 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, strike lines 13 through 18 and substitute the  
2 following:

3           "(I) "APPLIED BEHAVIOR ANALYSIS" MEANS THE USE OF BEHAVIOR  
4 ANALYTIC METHODS AND RESEARCH FINDINGS TO CHANGE SOCIALLY  
5 IMPORTANT BEHAVIORS IN MEANINGFUL WAYS.";

6 line 21, strike "(X) TO (XIII)" and substitute "(IX) TO (XII)";

7 line 26, strike "ORGANIZATION OR SHALL" and substitute  
8 "ORGANIZATION.";

9 strike line 27.

10 Page 4, strike lines 1 through 10 and substitute the following:

11 "WHEN THE THERAPEUTIC CARE PROVIDED BY THE AUTISM SERVICES  
12 PROVIDER IS APPLIED BEHAVIOR ANALYSIS, AN INDIVIDUAL WHO IS  
13 DIRECTLY SUPERVISED BY THE PERSON PROFESSIONALLY CERTIFIED AS A  
14 BEHAVIOR ANALYST MAY PROVIDE THERAPY AND IMPLEMENT SERVICES TO  
15 THE COVERED MEMBER WITH AN AUTISM SPECTRUM DISORDER AS  
16 INSTRUCTED BY THE APPLIED BEHAVIOR ANALYST.

17           (III) "AUTISM SPECTRUM DISORDERS" OR "ASD" INCLUDES THE  
18 FOLLOWING NEUROBIOLOGICAL DISORDERS: AUTISTIC DISORDER,

1 ASPERGER'S DISORDER, AND PERVASIVE DEVELOPMENTAL DISORDER NOT  
2 OTHERWISE SPECIFIED.

3 (IV) "HEALTH BENEFIT PLAN" SHALL HAVE THE SAME MEANING AS  
4 PROVIDED IN SECTION 10-16-102 (21). IN ADDITION, THE TERM "HEALTH  
5 BENEFIT PLAN", AS USED IN THIS SUBSECTION (1.4), EXCLUDES  
6 SHORT-TERM LIMITED DURATION HEALTH INSURANCE POLICIES AS DEFINED  
7 IN SECTION 10-16-102 (21) (b).".

8 Renumber succeeding subparagraphs accordingly.

9 Page 4, strike lines 17 through 26.

10 Renumber succeeding subparagraphs accordingly.

11 Page 5, strike lines 4 through 10.

12 Renumber succeeding subparagraphs accordingly.

13 Page 5, strike lines 20 through 22 and substitute the following:

14 "12, C.R.S."

15 Page 6, strike lines 2 through 15 and substitute the following:

16 "ANALYST. THERAPEUTIC CARE INCLUDES, BUT IS NOT LIMITED TO,  
17 SPEECH, OCCUPATIONAL, AND APPLIED BEHAVIOR ANALYTIC AND  
18 PHYSICAL THERAPIES.";

19 line 20, strike "AND DIRECT CARE AND" and substitute "OR DIRECT CARE  
20 OR";

21 line 21, after "TREATMENT", insert "OR ANY COMBINATION THEREOF";

22 line 22, strike "SUCH COVERAGE SHALL BE AT A LEVEL SUFFICIENT";

23 strike lines 23 through 27.

24 Page 7, line 3, strike "THERAPIES;" and substitute "THERAPIES. FOR A  
25 PERSON WHO IS ALSO COVERED UNDER SUBSECTION (1.7) OF THIS SECTION,  
26 THE LEVEL OF BENEFITS FOR OCCUPATIONAL THERAPY, PHYSICAL  
27 THERAPY, OR SPEECH THERAPY SHALL EXCEED THE LIMIT OF TWENTY

1 VISITS FOR EACH THERAPY IF SUCH THERAPY IS MEDICALLY NECESSARY TO  
2 TREAT AUTISM SPECTRUM DISORDERS UNDER THIS SUBSECTION (1.4).";

3 line 4, strike "MEDICATION;" and substitute "MEDICATION, IF COVERED BY  
4 THE HEALTH BENEFIT PLAN;"

5 line 8, strike "FOR AN INDIVIDUAL" and substitute "DEVELOPED FOR AN  
6 INDIVIDUAL BY A LICENSED PHYSICIAN OR A LICENSED CLINICAL  
7 PSYCHOLOGIST PURSUANT TO A COMPREHENSIVE EVALUATION OR  
8 REEVALUATION FOR AN INDIVIDUAL";

9 line 12, after the period, add "THE LICENSED PHYSICIAN OR LICENSED  
10 CLINICAL PSYCHOLOGIST SHALL DETERMINE WHAT IS MEDICALLY  
11 NECESSARY OR IS A MEDICAL NECESSITY ON AN INDIVIDUAL BASIS.";

12 line 13, strike "POLICIES" and substitute "HEALTH BENEFIT PLANS";

13 line 15, after the period, add "FOR A CHILD FROM BIRTH THROUGH TEN  
14 YEARS OF AGE UP TO, BUT NOT INCLUDING, ELEVEN YEARS OF AGE, THE  
15 ANNUAL MAXIMUM BENEFIT SHALL BE IN AN AMOUNT NOT TO EXCEED  
16 SEVENTY-FIVE THOUSAND DOLLARS; FOR A CHILD ELEVEN YEARS OF AGE  
17 OR OLDER AND UNDER TWENTY-ONE YEARS OF AGE, THE ANNUAL  
18 MAXIMUM BENEFIT SHALL BE IN AN AMOUNT NOT TO EXCEED  
19 TWENTY-FIVE THOUSAND DOLLARS; AND FOR PERSONS TWENTY-ONE  
20 YEARS OF AGE OR OLDER, THE ANNUAL MAXIMUM BENEFIT SHALL BE IN AN  
21 AMOUNT NOT TO EXCEED FIFTEEN THOUSAND DOLLARS.";

22 line 18, strike "POLICY" and substitute "HEALTH BENEFIT PLAN";

23 line 24, strike "POLICY." and substitute "HEALTH BENEFIT PLAN.";

24 line 27, strike "PSYCHOLOGIST, OR BY A DOCTORAL DEGREED  
25 PROFESSIONAL" and substitute "PSYCHOLOGIST.".

26 Page 8, strike lines 1 through 3;

27 line 4, strike "POLICY" and substitute "HEALTH BENEFIT PLAN";

28 line 6, strike "PROVIDE SPECIFIC EXCLUSIONS FOR" and substitute  
29 "EXCLUDE";

30 line 13, strike "NETWORK ADEQUACY,";

1 line 14, strike "POLICY OF SICKNESS AND ACCIDENT INSURANCE" and  
2 substitute "HEALTH BENEFIT PLAN";

3 line 16, strike "POLICY OF SICKNESS AND ACCIDENT INSURANCE" and  
4 substitute "HEALTH BENEFIT PLAN";

5 line 26, strike "POLICY" and substitute "HEALTH BENEFIT PLAN".

6 Page 9, line 10, strike "DEMONSTRABLE PROGRESS OR TO TREAT  
7 REGRESSION," and substitute "PROGRESS,";

8 strike lines 13 and 14 and substitute the following:

9 " TREATMENT PLAN ONCE EVERY SIX MONTHS, THE COST OF WHICH SHALL  
10 BE BORNE BY THE AUTISM SERVICES PROVIDER. IF THE CARRIER REQUESTS  
11 A REVIEW MORE FREQUENTLY THAN SIX MONTHS, THE AUTISM SERVICES  
12 PROVIDER MAY BILL THE CARRIER FOR THE REASONABLE COSTS  
13 ASSOCIATED WITH GENERATING ADDITIONAL REPORTS. DURING THE  
14 PENDENCY OF ANY";

15 line 25, strike "POLICY," and substitute "HEALTH BENEFIT PLAN,".

16 Page 10, strike lines 14 through 26 and substitute the following:

17 "(k) COVERAGE UNDER THIS SUBSECTION (1.4) IS SUBJECT TO ALL  
18 TERMS AND CONDITIONS, DEFINITIONS, RESTRICTIONS, EXCLUSIONS, AND  
19 LIMITATIONS THAT APPLY TO ANY OTHER COVERAGE UNDER THE HEALTH  
20 BENEFIT PLAN, INCLUDING THE TREATMENT UNDER THE HEALTH BENEFIT  
21 PLAN OF SERVICES PERFORMED BY PARTICIPATING AND NONPARTICIPATING  
22 PROVIDERS.

23 **SECTION 3.** 10-16-104.5, Colorado Revised Statutes, is  
24 amended to read:

25 **10-16-104.5. Autism - treatment - not mental illness.** (1) Any  
26 sickness and accident insurance policy providing indemnity for disability  
27 due to sickness issued by an entity subject to the provisions of part 2 of  
28 this article and any individual ~~or group service or indemnity contracts~~  
29 POLICIES issued by an entity subject to the provisions of part 3 or 4 of this  
30 article which provide coverage for autism shall provide such coverage in  
31 the same manner as for any other accident or sickness, other than mental  
32 illness, otherwise covered under such policy.

1 (2) Nothing in this section shall mandate or be construed or  
2 interpreted to mandate that any INDIVIDUAL policy ~~hospital service or~~  
3 ~~indemnity contract, or evidence of coverage~~ must provide coverage for  
4 autism.

5 (3) NOTHING IN THIS SECTION SHALL PROHIBIT OR PREVENT A  
6 PERSON WITH AN AUTISM SPECTRUM DISORDER FROM RECEIVING MENTAL  
7 HEALTH BENEFITS IN HIS OR HER HEALTH BENEFIT PLAN."

8 Page 11, strike lines 6 through 10 and substitute the following:

9 "(gg) ISSUING OR RENEWING A HEALTH BENEFIT PLAN AS DEFINED  
10 IN SECTION 10-16-104 (1.4) (a) (IV) THAT IS SUBJECT TO THE  
11 REQUIREMENTS OF SECTION 10-16-104 (1.4) IF THE HEALTH BENEFIT PLAN  
12 EXCLUDES";

13 after line 14, insert the following:

14 "SECTION 5. 25.5-6-802 (1), Colorado Revised Statutes, is  
15 amended to read:

16 **25.5-6-802. Definitions.** As used in this part 8, unless the context  
17 otherwise requires:

18 (1) "Eligible child" means a child who:

19 (a) Is eligible for the state's medicaid program pursuant to section  
20 25.5-5-101, 25.5-5-201, or 25.5-5-203;

21 (b) Is age birth to ~~six~~ TWENTY-ONE years;

22 (c) Has a diagnosis of autism;

23 (d) Is at risk of institutionalization in either an intermediate care  
24 facility for the mentally retarded, a hospital, or a nursing facility; and

25 (e) Is not receiving services from any of the alternatives to  
26 long-term care waiver programs established in this title.

27 **SECTION 6.** 25.5-6-804 (1), Colorado Revised Statutes, is  
28 amended to read:

1           **25.5-6-804. Services - duties of the state department - rules.**  
2 (1) Subject to the provisions of this part 8, home- and community-based  
3 services for children with autism shall include ~~only~~ the following  
4 services, as specified in the eligible child's care plan, AND SERVICES  
5 EQUIVALENT TO THE SAME TYPES OF SERVICES AND COVERAGE REQUIRED  
6 TO BE PROVIDED BY PRIVATE HEALTH INSURANCE CARRIERS PURSUANT TO  
7 SECTION 10-16-104 (1.4), C.R.S.:

8           (a) Occupational therapy;

9           (b) Speech therapy;

10          (c) Psychological and psychiatric services;

11          (d) Physical therapy;

12          (e) Behavioral therapy; and

13          (f) Services provided under the consumer-directed care service  
14 model, part 11 of this article.

15           **SECTION 7.** 25.5-8-107 (1) (a), Colorado Revised Statutes, is  
16 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

17           **25.5-8-107. Duties of the department - schedule of services -**  
18 **premiums - copayments - subsidies.** (1) In addition to any other duties  
19 pursuant to this article, the department shall have the following duties:

20           (a) (IV) IN ADDITION TO THE ITEMS SPECIFIED IN SUBPARAGRAPH  
21 (I), (II), AND (III) OF THIS PARAGRAPH (a), THE MEDICAL SERVICES BOARD  
22 SHALL INCLUDE COVERAGE FOR AUTISM SPECTRUM DISORDERS  
23 EQUIVALENT TO THE SAME COVERAGE REQUIRED TO BE PROVIDED BY  
24 PRIVATE HEALTH INSURANCE CARRIERS PURSUANT TO SECTION 10-16-104  
25 (1.4), C.R.S."

26           Renumber succeeding section accordingly.

\*\* \*\*\* \*\* \*\*\* \*\*