

# SENATE . . . . . No. 1737

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act relative to insurance coverage for pervasive developmental disorders..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           1. Chapter 32A of the General Laws is hereby amended by adding the following  
2 section:- Section 23. (a) The commission shall provide to any active or retired employee of the  
3 commonwealth who is insured under the group insurance commission coverage on a  
4 nondiscriminatory basis for the diagnosis and treatment of the following pervasive  
5 developmental disorders, as described in the most recent edition of the Diagnostic and Statistical  
6 Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1)  
7 autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise  
8 specified, (4) rett's disorder, and (5) childhood disintegrative disorder appearing in the DSM that  
9 are scientifically recognized and approved by the commissioner of the division of insurance.

10           (b) In addition to the coverage established pursuant to this section, any such health plan  
11 shall also provide coverage on a non-discriminatory basis for children and adolescents under the  
12 age of 19 for the diagnosis and treatment of following pervasive developmental disorders, as  
13 described in the most recent edition of the Diagnostic and Statistical Manual of the American  
14 Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2)

15 asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's  
16 disorder, and (5) childhood disintegrative disorder which substantially interfere with or  
17 substantially limit the functioning and social interactions of such a child or adolescent; provided,  
18 that said interference or limitation is documented by and the referral for said diagnosis and  
19 treatment is made by the primary care physician, primary pediatrician, or a licensed health  
20 professional of such a child or adolescent or is evidenced by conduct. Any such health plan shall  
21 continue to provide such coverage to any adolescent who is engaged in an ongoing course of  
22 treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified  
23 in said adolescent's treatment plan, is completed and while the benefit contract under which such  
24 benefits first became available remains in effect, or subject to a subsequent benefits contract  
25 which is in effect.

26 (d) Any such health plan shall be deemed to be providing such coverage on a non-  
27 discriminatory basis if said plan does not contain any annual or lifetime dollar or unit of service  
28 limitation on coverage for the diagnosis and treatment of said pervasive developmental disorders  
29 which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage  
30 for the diagnosis and treatment of physical conditions.

31 (e) The commission shall also provide medically necessary coverage for the diagnosis  
32 and treatment of all other pervasive developmental disorders not otherwise provided for in this  
33 section and which are described in the most recent edition of the DSM IV during each 12 month  
34 period for a minimum of 60 visits.

35 (f) The coverage authorized pursuant to this section shall consist of a range of services  
36 that shall permit medically necessary and active and noncustodial treatment for said pervasive

developmental disorders to take place in the least restrictive clinically appropriate setting. The commission may, as a condition of providing coverage pursuant to this section, require consent to the disclosure of information regarding services for pervasive developmental disorders only to the same or similar extent in which it requires consent for the disclosure of information for other medical conditions. Only licensed health professionals shall be allowed to deny services mandated by this section. The provisions of this subsection shall not be construed as applying to denials of service resulting from an insured's lack of insurance coverage or the use of a facility or professional which, if applicable, has not entered into a negotiated agreement with a health plan. The benefits provided in any insurance plan pursuant to this section shall meet all other terms and conditions of the plan not inconsistent with this section.

SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting the following new section after section 47B:- Section 47C. (a) Any individual policy of accident and sickness insurance issued pursuant to section 108, which provides hospital expense and surgical expense insurance, and any group blanket or general policy of accident and sickness insurance issued pursuant to section 110, which provides hospital expense and surgical expense insurance, which is issued or renewed within or without the commonwealth, shall provide benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of the following pervasive developmental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood

disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM that are scientifically recognized and approved by the commissioner of the division of insurance.

(b) In addition to the benefits established pursuant to this section, any such policy shall also provide benefits on a non-discriminatory basis for children and adolescents under the age of 19 for the diagnosis and treatment of pervasive developmental disorders, as described in the most recent edition of the DSM IV, which substantially interfere with or substantially limit the functioning and social interactions of such a child or adolescent; provided, that said interference or limitation is documented by and the referral for said diagnosis and treatment is made by the primary care physician, primary pediatrician or a licensed health professional of such a child or adolescent or is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a disorder, or (3) a pattern of conduct or behavior caused by such a disorder which poses a serious danger to self or others. The insurer shall continue to provide such benefits to any adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's treatment plan, is completed and while the benefit contract under which such benefits first became available remains in effect, or subject to a subsequent benefits contract which is in effect.

(d) Any such policy shall be deemed to be providing such benefits on a nondiscriminatory basis if the policy does not contain any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of said pervasive developmental disorders which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(e) Any such policy shall also provide medically necessary benefits for the diagnosis and treatment of all other pervasive developmental disorders not otherwise provided for in this section and which are described in the most recent edition of DSM during each 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.

(f) Nothing in this section shall be construed to exempt an individual policy of accident and sickness insurance issued from paying for pervasive developmental disorder benefits or services: which are provided to a person who has third party insurance and who is presently incarcerated, confined or committed to a jail, house of correction or prison, or custodial facility in the department of youth services within the commonwealth or one of its political subdivisions; including those which constitute educational services and would otherwise be required to be provided by a school committee pursuant to section 5 of chapter 71B; or which constitute services provided by the department of mental health or department of mental retardation.

SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after section 8B, the following section:- Section 8C. (a) Any contract between a subscriber and the corporation under an individual or group hospital service plan which is issued or renewed within or without the commonwealth shall provide pervasive developmental disorder benefits on a nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and members and group members having a principal place of employment in the he commonwealth for the diagnosis and treatment of the following pervasive developmental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive developmental disorders appearing

104 in the DSM that are scientifically recognized and approved by the commissioner of the  
105 department of mental health in consultation with the commissioner of the division of insurance.

106 (b) In addition to the pervasive developmental disorder benefits established pursuant to  
107 this section, any such contract shall also provide benefits on a non-discriminatory basis for  
108 children and adolescents under the age of 19 for the diagnosis and treatment of pervasive  
109 developmental disorder, behavioral or emotional disorders, as described in the most recent  
110 edition of the DSM IV, which substantially interfere with or substantially limit the functioning  
111 and social interactions of such a child or adolescent; provided, that said interference or limitation  
112 is documented by and the referral for said diagnosis and treatment is made by the primary care  
113 physician, primary pediatrician or a licensed health professional of such a child or adolescent or  
114 is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result  
115 of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a  
116 disorder, or (3) a pattern of conduct or behavior caused by such a disorder which poses a serious  
117 danger to self or others. The nonprofit hospital service corporation shall continue to provide such  
118 benefits to any adolescent who is engaged in an ongoing course of treatment beyond the  
119 adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's  
120 treatment plan, is completed and while the benefit contract under which such benefits first  
121 became available remains in effect, or subject to a subsequent benefits contract which is in  
122 effect.

123 (c) Any such contract shall be deemed to be providing such coverage on a non-  
124 discriminatory basis if the contract does not contain any annual or lifetime dollar or unit of  
125 service limitation on benefits for the diagnosis and treatment of said mental disorders which is

less than any annual or lifetime dollar or unit of service limitation imposed on benefits for the diagnosis and treatment of physical conditions.

(d) Any such contract shall also provide medically necessary benefits for the diagnosis and treatment of all other mental disorders not otherwise provided for in this section and which are described in the most recent edition of the DSM IV during each 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.

(e) Benefits authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said pervasive developmental disorders to take place in the least restrictive clinically appropriate setting.

(f) Nothing in this section shall be construed to exempt a non-profit hospital service corporation insurer from paying for pervasive developmental disorder benefits or services: which are provided to a person who has third party insurance and who is presently incarcerated, confined or committed to a jail, house of correction or prison, or custodial facility in the department of youth services within the commonwealth or one of its political subdivisions; including those which constitute educational services and would otherwise be required to be provided by a school committee pursuant to section 5 of chapter 71B; or which constitute services provided by the department of mental health or department of mental retardation.

SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after section 4C, the following section:- Section 4D. (a) Any subscription certificate under an individual or group medical service agreement which is issued or renewed within or without the commonwealth shall provide pervasive developmental disorder benefits on a nondiscriminatory

basis to residents of the commonwealth and to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment in the commonwealth for the diagnosis and treatment of the following pervasive developmental disorder, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM Association that are scientifically recognized and approved by the commissioner of the division of insurance.

(b) In addition to the pervasive developmental disorder benefits established pursuant to this section, any such subscription certificate shall also provide benefits on a non-discriminatory basis for children and adolescents under the age of 19 for the diagnosis and treatment of pervasive developmental disorders, as described in the most recent edition of the DSM IV, which substantially interfere with or substantially limit the functioning and social interactions of such a child or adolescent; provided, that said interference or limitation is documented by and the referral for said diagnosis and treatment is made by the primary care physician, primary pediatrician or a licensed mental health professional of such a child or adolescent or is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a disorder, (3) a pattern of conduct or behavior caused by such a disorder which poses a serious danger to self or others. The nonprofit medical service corporation shall continue to provide such benefits to any adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's treatment plan, is

completed and while the benefit contract under which such benefits first became available remains in effect, or subject to a subsequent benefits contract which is in effect.

(d) Any such subscription certificate shall be deemed to be providing such coverage on a nondiscriminatory basis if the subscription certificate does not contain any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of said pervasive developmental disorders which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(e) Any such subscription certificate shall also provide medically necessary benefits for the diagnosis and treatment of all other pervasive developmental disorders not otherwise provided for in this section and which are described in the most recent edition of the DSM IV during each 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.

(f) Benefits authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting.

(g) Nothing in this section shall be construed to exempt a non-profit medical service corporation insurer from paying for pervasive developmental disorder benefits or services: which are provided to a person who has third party insurance and who is presently incarcerated, confined or committed to a jail, house of correction or prison, or custodial facility in the department of youth services within the commonwealth or one of its political subdivisions; including those which constitute educational services and would otherwise be required to be

provided by a school committee pursuant to section 5 of chapter 71B; or which constitute services provided by the department of mental health or department of mental retardation.

SECTION 5. Said chapter 176G is hereby amended by inserting after section 4N, as so appearing, the following section:- Section 4O. (a) A health maintenance contract issued or renewed within or without the commonwealth shall provide pervasive developmental disorder benefits on a nondiscriminatory basis to residents of the commonwealth and to all members or enrollees having a principal place of employment in the commonwealth for the diagnosis and treatment of the following pervasive developmental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM that are scientifically recognized and approved by the commissioner of the division of insurance.

(b) In addition to said pervasive developmental disorder benefits established pursuant to this section, any such health maintenance contract shall also provide benefits on a non-discriminatory basis to children and adolescents under the age of 19 for the diagnosis and treatment of pervasive developmental disorders, as described in the most recent edition of the DSM IV, which substantially interfere with or substantially limit the functioning and social interactions of such a child or adolescent; provided, that said interference or limitation is documented by and the referral for said diagnosis and treatment is made by the primary care physician, primary pediatrician or a licensed health professional of such a child or adolescent or is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a

disorder, (3) a pattern of conduct or behavior caused by such a disorder which poses a serious danger to self or others. The health maintenance organization shall continue to provide such benefits to any adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's treatment plan, is completed and while the benefit contract under which such benefits first became available remains in effect, or subject to a subsequent benefits contract which is in effect.

(c) Any such health maintenance contract shall be deemed to be providing such coverage on a non-discriminatory basis if the health maintenance contract does not contain any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of said mental disorders which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(d) Any such health maintenance contract shall also provide benefits for the diagnosis and treatment of all other pervasive developmental disorders not otherwise provided for in this section and which are described in the most recent edition of the DSM IV during each 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.

(e) Benefits authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said pervasive developmental disorders to take place in the least restrictive clinically appropriate setting.

(f) Nothing in this section shall be construed to exempt a health maintenance organization insurer from paying for pervasive developmental disorder benefits or services: which are provided to a person who has third party insurance and who is presently incarcerated, confined or committed to a jail, house of correction or prison, or custodial facility in the department of youth services within the commonwealth or one of its political subdivisions; including those which constitute educational services and would otherwise be required to be provided by a school committee pursuant to section 5 of chapter 71B; or which constitute services provided by the department of mental health or department of mental retardation.

SECTION 6. All policies, contracts and certificates of health insurance subject to the provisions of section 22 of chapter 32, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter 176B, and section 4M of chapter 176G of the General Laws which are delivered, issued, or renewed on or after January 1, 2002 shall conform with the provisions of this act. Form filings implementing this act shall be subject to the approval of the commissioner of insurance.