

**SENATE . . . . . No. 436**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Thomas M. McGee*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to insurance coverage for pervasive developmental disorders..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

**SENATE . . . . . No. 436**

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By Mr. McGee, a petition (accompanied by bill, Senate, No. 436) of Thomas M. McGee and Kay Khan for legislation relative to insurance coverage for pervasive developmental disorders. Financial Services.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1737 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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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           SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the  
2 following section:- Section 23. (a) The commission shall provide to any active or retired  
3 employee of the commonwealth who is insured under the group insurance commission coverage  
4 on a 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  
37 developmental disorders to take place in the least restrictive clinically appropriate setting. The  
38 commission may, as a condition of providing coverage pursuant to this section, require consent  
39 to the disclosure of information regarding services for pervasive developmental disorders only to  
40 the same or similar extent in which it requires consent for the disclosure of information for other  
41 medical conditions. Only licensed health professionals shall be allowed to deny services  
42 mandated by this section. The provisions of this subsection shall not be construed as applying to  
43 denials of service resulting from an insured's lack of insurance coverage or the use of a facility or  
44 professional which, if applicable, has not entered into a negotiated agreement with a health plan.  
45 The benefits provided in any insurance plan pursuant to this section shall meet all other terms  
46 and conditions of the plan not inconsistent with this section.

47 SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting the  
48 following new section after section 47B:- Section 47C. (a) Any individual policy of accident and  
49 sickness insurance issued pursuant to section 108, which provides hospital expense and surgical  
50 expense insurance, and any group blanket or general policy of accident and sickness insurance  
51 issued pursuant to section 110, which provides hospital expense and surgical expense insurance,  
52 which is issued or renewed within or without the commonwealth, shall provide benefits on a  
53 nondiscriminatory basis to residents of the commonwealth and to all policyholders having a  
54 principal place of employment in the commonwealth for the diagnosis and treatment of the  
55 following pervasive developmental disorders, as described in the most recent edition of the

56 Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this  
57 section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive  
58 developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood  
59 disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM  
60 that are scientifically recognized and approved by the commissioner of the division of insurance.

61 (b) In addition to the benefits established pursuant to this section, any such policy shall  
62 also provide benefits on a non-discriminatory basis for children and adolescents under the age of  
63 19 for the diagnosis and treatment of pervasive developmental disorders, as described in the most  
64 recent edition of the DSM IV, which substantially interfere with or substantially limit the  
65 functioning and social interactions of such a child or adolescent; provided, that said interference  
66 or limitation is documented by and the referral for said diagnosis and treatment is made by the  
67 primary care physician, primary pediatrician or a licensed health professional of such a child or  
68 adolescent or is evidenced by conduct, including, but not limited to: (1) an inability to attend  
69 school as a result of such a disorder, (2) the need to hospitalize the child or adolescent as a result  
70 of such a disorder, or (3) a pattern of conduct or behavior caused by such a disorder which poses  
71 a serious danger to self or others. The insurer shall continue to provide such benefits to any  
72 adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth  
73 birthday until said course of treatment, as specified in said adolescent's treatment plan, is  
74 completed and while the benefit contract under which such benefits first became available  
75 remains in effect, or subject to a subsequent benefits contract which is in effect.

76 (d) Any such policy shall be deemed to be providing such benefits on a  
77 nondiscriminatory basis if the policy does not contain any annual or lifetime dollar or unit of  
78 service limitation on coverage for the diagnosis and treatment of said pervasive developmental

79 disorders which is less than any annual or lifetime dollar or unit of service limitation imposed on  
80 coverage for the diagnosis and treatment of physical conditions.

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

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

93 SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after  
94 section 8B, the following section:- Section 8C. (a) Any contract between a subscriber and the  
95 corporation under an individual or group hospital service plan which is issued or renewed within  
96 or without the commonwealth shall provide pervasive developmental disorder benefits on a  
97 nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and  
98 members and group members having a principal place of employment in the he commonwealth  
99 for the diagnosis and treatment of the following pervasive developmental disorders, as described  
100 in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric

101 Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's  
102 disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and  
103 (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  
126 less than any annual or lifetime dollar or unit of service limitation imposed on benefits for the  
127 diagnosis and treatment of physical conditions.

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

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

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



144 SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after  
145 section 4C, the following section:- Section 4D. (a) Any subscription certificate under an  
146 individual or group medical service agreement which is issued or renewed within or without the  
147 commonwealth shall provide pervasive developmental disorder benefits on a nondiscriminatory  
148 basis to residents of the commonwealth and to all individual subscribers and members within the  
149 commonwealth and to all group members having a principal place of employment in the  
150 commonwealth for the diagnosis and treatment of the following pervasive developmental  
151 disorder, as described in the most recent edition of the Diagnostic and Statistical Manual of the  
152 American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic  
153 disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified,  
154 (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive developmental  
155 disorders appearing in the DSM Association that are scientifically recognized and approved by  
156 the commissioner of the division of insurance.

157 (b) In addition to the pervasive developmental disorder benefits established pursuant to  
158 this section, any such subscription certificate shall also provide benefits on a non-discriminatory  
159 basis for children and adolescents under the age of 19 for the diagnosis and treatment of  
160 pervasive developmental disorders, as described in the most recent edition of the DSM IV, which  
161 substantially interfere with or substantially limit the functioning and social interactions of such a  
162 child or adolescent; provided, that said interference or limitation is documented by and the  
163 referral for said diagnosis and treatment is made by the primary care physician, primary  
164 pediatrician or a licensed mental health professional of such a child or adolescent or is evidenced  
165 by conduct, including, but not limited to: (1) an inability to attend school as a result of such a  
166 disorder, (2) the need to hospitalize the child or adolescent as a result of such a disorder, (3) a

167 pattern of conduct or behavior caused by such a disorder which poses a serious danger to self or  
168 others. The nonprofit medical service corporation shall continue to provide such benefits to any  
169 adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth  
170 birthday until said course of treatment, as specified in said adolescent's treatment plan, is  
171 completed and while the benefit contract under which such benefits first became available  
172 remains in effect, or subject to a subsequent benefits contract which is in effect.

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

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

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

187 (g) Nothing in this section shall be construed to exempt a non-profit medical service  
188 corporation insurer from paying for pervasive developmental disorder benefits or services: which

189 are provided to a person who has third party insurance and who is presently incarcerated,  
190 confined or committed to a jail, house of correction or prison, or custodial facility in the  
191 department of youth services within the commonwealth or one of its political subdivisions;  
192 including those which constitute educational services and would otherwise be required to be  
193 provided by a school committee pursuant to section 5 of chapter 71B; or which constitute  
194 services provided by the department of mental health or department of mental retardation.

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

206 (b) In addition to said pervasive developmental disorder benefits established pursuant to  
207 this section, any such health maintenance contract shall also provide benefits on a non-  
208 discriminatory basis to children and adolescents under the age of 19 for the diagnosis and  
209 treatment of pervasive developmental disorders, as described in the most recent edition of the  
210 DSM IV, which substantially interfere with or substantially limit the functioning and social  
211 interactions of such a child or adolescent; provided, that said interference or limitation is

212 documented by and the referral for said diagnosis and treatment is made by the primary care  
213 physician, primary pediatrician or a licensed health professional of such a child or adolescent or  
214 is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result  
215 of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a  
216 disorder, (3) a pattern of conduct or behavior caused by such a disorder which poses a serious  
217 danger to self or others. The health maintenance organization shall continue to provide such  
218 benefits to any adolescent who is engaged in an ongoing course of treatment beyond the  
219 adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's  
220 treatment plan, is completed and while the benefit contract under which such benefits first  
221 became available remains in effect, or subject to a subsequent benefits contract which is in  
222 effect.

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

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

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

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

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