

# HOUSE BILL 1091

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CF 0lr2727

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By: **Delegates Reznik, Anderson, Barkley, Beidle, Benson, Bobo, Bromwell, Bronrott, Carr, Carter, G. Clagett, Dumais, Feldman, Frick, Frush, Gilchrist, Gutierrez, Guzzone, Healey, Hixson, Howard, Hubbard, Huckler, Ivey, Kaiser, Kramer, Kullen, Lafferty, Lee, Manno, Mathias, Mizeur, Montgomery, Nathan-Pulliam, Oaks, Pena-Melnyk, Rice, Robinson, Rosenberg, Rudolph, Schuler, Shewell, Simmons, Sophocleus, Stein, Tarrant, Taylor, F. Turner, V. Turner, Valderrama, and Waldstreicher**

Introduced and read first time: February 17, 2010  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Coverage of Autism Spectrum Disorders**

3 FOR the purpose of requiring certain insurers, nonprofit health service plans, and  
4 health maintenance organizations to provide coverage for the diagnosis of  
5 autism spectrum disorders and certain treatment of autism spectrum disorders;  
6 requiring certain treatment of autism spectrum disorders to be prescribed and  
7 provided by certain individuals; clarifying that certain provisions of this Act  
8 may not be construed as limiting certain benefits otherwise available to an  
9 individual; prohibiting certain limits on visits to an autism services provider;  
10 requiring a certain notice; authorizing certain insurers, nonprofit health service  
11 plans, and health maintenance organizations to request an updated treatment  
12 plan at certain intervals; requiring certain insurers, nonprofit health service  
13 plans, and health maintenance organizations to pay the cost of the updated  
14 treatment plan; providing that a certain determination constitutes an adverse  
15 decision under certain provisions of law; providing that certain insurers,  
16 nonprofit health service plans, and health maintenance organizations are not  
17 required to provide reimbursement for certain services; exempting certain  
18 insurers, nonprofit health service plans, and health maintenance organizations  
19 from providing coverage for habilitative or rehabilitative care for certain years  
20 under certain circumstances; making the provisions of this Act applicable to  
21 health maintenance organizations; defining certain terms; providing for the  
22 application of this Act; providing for a delayed effective date; and generally  
23 relating to health insurance coverage of autism spectrum disorders.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Insurance  
3 Section 15–845  
4 Annotated Code of Maryland  
5 (2006 Replacement Volume and 2009 Supplement)

6 BY adding to  
7 Article – Health – General  
8 Section 19–706(cccc)  
9 Annotated Code of Maryland  
10 (2009 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Insurance**

14 **15–845.**

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
16 MEANINGS INDICATED.

17 (2) (I) “APPLIED BEHAVIOR ANALYSIS” MEANS THE DESIGN,  
18 IMPLEMENTATION, AND EVALUATION OF ENVIRONMENTAL MODIFICATIONS,  
19 USING BEHAVIORAL STIMULI AND CONSEQUENCES, TO:

20 1. PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT  
21 IN HUMAN BEHAVIOR; OR

22 2. PREVENT THE LOSS OF ATTAINED SKILL OR  
23 FUNCTION.

24 (II) “APPLIED BEHAVIOR ANALYSIS” INCLUDES THE USE OF  
25 DIRECT OBSERVATION, MEASUREMENT, AND FUNCTIONAL ANALYSIS OF THE  
26 RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAVIOR.

27 (3) “AUTISM SPECTRUM DISORDERS” MEANS ANY OF THE  
28 PERVASIVE DEVELOPMENTAL DISORDERS, AS DESCRIBED IN THE CURRENT  
29 VERSION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL  
30 DISORDERS.

31 (4) “DIAGNOSIS OF AUTISM SPECTRUM DISORDERS” MEANS  
32 MEDICALLY NECESSARY ASSESSMENTS, EVALUATIONS, OR TESTS TO DIAGNOSE  
33 WHETHER AN INDIVIDUAL HAS AN AUTISM SPECTRUM DISORDER.

1           **(5) “HABILITATIVE OR REHABILITATIVE CARE” MEANS**  
2 **PROFESSIONAL, COUNSELING, AND GUIDANCE SERVICES AND TREATMENT**  
3 **PROGRAMS AND DEVICES, INCLUDING APPLIED BEHAVIOR ANALYSIS AND**  
4 **SPEECH GENERATING DEVICES, THAT ARE NECESSARY TO DEVELOP, MAINTAIN,**  
5 **OR RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE FUNCTIONING OF**  
6 **AN INDIVIDUAL.**

7           **(6) “SPEECH GENERATING DEVICES” MEANS SPEECH AIDS THAT**  
8 **TREAT SEVERE SPEECH OR LANGUAGE IMPAIRMENTS BY PROVIDING**  
9 **INDIVIDUALS WITH THE ABILITY TO MEET DAILY COMMUNICATION NEEDS.**

10           **(7) “TREATMENT OF AUTISM SPECTRUM DISORDERS” MEANS**  
11 **HABILITATIVE OR REHABILITATIVE CARE PRESCRIBED TO AN INDIVIDUAL**  
12 **DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER AS PART OF A TREATMENT**  
13 **PLAN THAT INCLUDES THERAPEUTIC GOALS AND OUTCOME MEASURES.**

14           **(B) THIS SECTION APPLIES TO:**

15           **(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT**  
16 **PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR**  
17 **GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE**  
18 **POLICIES THAT ARE ISSUED OR DELIVERED IN THE STATE; AND**

19           **(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE**  
20 **HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS**  
21 **UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.**

22           **(C) EXCEPT AS PROVIDED IN SUBSECTION (L) OF THIS SECTION, AN**  
23 **ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR THE**  
24 **DIAGNOSIS OF AUTISM SPECTRUM DISORDERS AND THE**  
25 **EVIDENCE-BASED, MEDICALLY NECESSARY TREATMENT OF AUTISM SPECTRUM**  
26 **DISORDERS.**

27           **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
28 **SUBSECTION, TREATMENT OF AUTISM SPECTRUM DISORDERS COVERED UNDER**  
29 **THIS SECTION SHALL BE PRESCRIBED BY A LICENSED PHYSICIAN OR A**  
30 **LICENSED PSYCHOLOGIST.**

31           **(2) SPEECH GENERATING DEVICES COVERED UNDER THIS**  
32 **SECTION SHALL BE PRESCRIBED BY A LICENSED PHYSICIAN OR A LICENSED**  
33 **SPEECH-LANGUAGE PATHOLOGIST.**

34           **(E) APPLIED BEHAVIOR ANALYSIS COVERED UNDER THIS SECTION**  
35 **SHALL BE PROVIDED BY AN INDIVIDUAL WHO IS:**

1           (1) LICENSED UNDER TITLE 14 OR TITLE 18 OF THE HEALTH  
2 OCCUPATIONS ARTICLE OR UNDER THE SUPERVISION OF AN INDIVIDUAL  
3 LICENSED UNDER TITLE 14 OR TITLE 18 OF THE HEALTH OCCUPATIONS  
4 ARTICLE; OR

5           (2) A BOARD CERTIFIED BEHAVIOR ANALYST OR A BOARD  
6 CERTIFIED ASSOCIATE BEHAVIOR ANALYST CREDENTIALLED BY THE BEHAVIOR  
7 ANALYST CERTIFICATION BOARD.

8           (F) THIS SECTION MAY NOT BE CONSTRUED AS LIMITING BENEFITS  
9 THAT OTHERWISE ARE AVAILABLE TO AN INDIVIDUAL UNDER:

10           (1) § 15-802 OR § 15-835 OF THIS SUBTITLE;

11           (2) § 19-703.1 OR § 19-706(NN) OF THE HEALTH - GENERAL  
12 ARTICLE; OR

13           (3) ANY OTHER COVERAGE PROVIDED UNDER A HEALTH  
14 INSURANCE POLICY OR A HEALTH MAINTENANCE ORGANIZATION CONTRACT.

15           (G) (1) COVERAGE UNDER THIS SECTION IS NOT SUBJECT TO PRESET  
16 LIMITS ON THE NUMBER OF VISITS AN INDIVIDUAL MAY MAKE TO AN AUTISM  
17 SERVICES PROVIDER.

18           (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE  
19 CONSTRUED TO PROHIBIT AN ENTITY SUBJECT TO THIS SECTION FROM  
20 CONDUCTING UTILIZATION REVIEW FOR THE PURPOSE OF DETERMINING THE  
21 DURATION AND INTENSITY OF TREATMENT COVERED UNDER THIS SECTION.

22           (H) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE  
23 ANNUALLY TO ITS INSURED AND ENROLLEES ABOUT THE COVERAGE  
24 REQUIRED UNDER THIS SECTION.

25           (I) (1) AN ENTITY SUBJECT TO THIS SECTION PERIODICALLY MAY  
26 REQUEST AN UPDATED TREATMENT PLAN, BUT NOT MORE OFTEN THAN ONCE  
27 EVERY 6 MONTHS, UNLESS THE LICENSED PHYSICIAN, LICENSED  
28 PSYCHOLOGIST, OR LICENSED SPEECH-LANGUAGE PATHOLOGIST WHO  
29 PRESCRIBES CARE FOR AN INDIVIDUAL AGREES THAT MORE FREQUENT REVIEW  
30 OF THE INDIVIDUAL'S TREATMENT PLAN IS NECESSARY.

31           (2) AN ENTITY SUBJECT TO THIS SECTION THAT REQUESTS AN  
32 UPDATED TREATMENT PLAN SHALL BEAR THE COST OF OBTAINING THE PLAN.

1           **(J)** A DETERMINATION BY AN ENTITY SUBJECT TO THIS SECTION TO  
2 DENY COVERAGE FOR THE BENEFITS PROVIDED UNDER THIS SECTION  
3 CONSTITUTES AN ADVERSE DECISION UNDER SUBTITLE 10A OF THIS TITLE.

4           **(K)** AN ENTITY SUBJECT TO THIS SECTION IS NOT REQUIRED TO  
5 PROVIDE REIMBURSEMENT FOR SERVICES DELIVERED THROUGH EARLY  
6 INTERVENTION OR OTHER SCHOOL SERVICES.

7           **(L) (1)** AN ENTITY SUBJECT TO THIS SECTION IS EXEMPT FROM  
8 PROVIDING COVERAGE UNDER A POLICY OR CONTRACT FOR HABILITATIVE OR  
9 REHABILITATIVE CARE REQUIRED UNDER THIS SECTION AND NOT COVERED  
10 UNDER THE POLICY OR CONTRACT IN EFFECT ON **DECEMBER 31, 2010**, IF:

11                   **(I)** AN ACTUARY, AFFILIATED WITH THE ENTITY, WHO IS A  
12 MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES AND MEETS THE  
13 AMERICAN ACADEMY OF ACTUARIES' PROFESSIONAL QUALIFICATION  
14 STANDARDS FOR RENDERING AN ACTUARIAL OPINION RELATED TO HEALTH  
15 INSURANCE RATE MAKING, CERTIFIES IN WRITING TO THE COMMISSIONER  
16 THAT:

17                           1. FOR THE MOST RECENT EXPERIENCE PERIOD OF  
18 AT LEAST 1 YEAR'S DURATION, THE COSTS ASSOCIATED WITH COVERAGE FOR  
19 HABILITATIVE OR REHABILITATIVE CARE REQUIRED UNDER THIS SECTION, AND  
20 NOT COVERED BY THE POLICY OR CONTRACT IN EFFECT ON **DECEMBER 31,**  
21 **2010**, EXCEEDED 2% OF THE PREMIUMS CHARGED; AND

22                           2. THOSE COSTS WOULD LEAD TO AN INCREASE IN  
23 PREMIUMS OF MORE THAN 2% FOR THE YEAR FOLLOWING THE MOST RECENT  
24 EXPERIENCE PERIOD, BASED ON THE PREMIUM RATING METHODOLOGY AND  
25 PRACTICES EMPLOYED BY THE ENTITY; AND

26                           **(II)** THE COMMISSIONER APPROVES THE CERTIFICATION OF  
27 THE ACTUARY.

28                   **(2)** AN EXEMPTION ALLOWED UNDER PARAGRAPH **(1)** OF THIS  
29 SUBSECTION SHALL APPLY FOR 1 YEAR OF A POLICY OR CONTRACT, AFTER  
30 WHICH AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR  
31 HABILITATIVE OR REHABILITATIVE CARE REQUIRED UNDER THIS SECTION.

32                   **(3)** AN ENTITY SUBJECT TO THIS SECTION MAY CLAIM AN  
33 EXEMPTION FOR A SUBSEQUENT YEAR, BUT ONLY IF THE CONDITIONS  
34 SPECIFIED IN PARAGRAPH **(1)** OF THIS SUBSECTION ARE MET.

