

# Health Insurance Coverage For Autism

## NOTICES - INSURANCE DEPARTMENT Pennsylvania

### Autism Coverage; Notice 2009-03

[39 Pa.B. 1927]

[Saturday, April 11, 2009]

This notice is issued to advise all entities subject to section 635.2 of the act of The Insurance Company Law of 1921 (added by section 2 of Act 62 of 2008) (Act 62) (40 P. S. § 764h) of their obligations under Pennsylvania law in the provision of coverage for autism benefits. Pennsylvania law, in Act 62, requires coverage of the diagnostic assessment and treatment of autism spectrum disorders by certain group insurance policies or contracts. The Insurance Department (Department) has been asked how the "general exclusions or limitations" language in the Act should be applied. Accordingly, the Department releases the following guidance concerning the provision of benefits under the Act 62.

Act 62 mandates coverage of the "treatment of autism spectrum disorders," and defines that term to include "medically necessary pharmacy care, psychiatric care, psychological care, rehabilitative care and therapeutic care" prescribed and provided in accordance with Act 62. See 40 P. S. § 764h(f)(14). In addition, Act 62 also provides that the autism coverage "shall not be subject to any limits on the number of visits to an autism service provider for treatment of autism spectrum disorders." See 40 P. S. § 764h(b). However, Act 62 does allow a carrier to apply "general exclusions or limitations" to the autism spectrum disorder coverage "to the same extent as other medical services covered by the policy." See 40 P. S. § 764h(c). The Department has been asked whether these three subsections are incongruent. They are not. The Department interprets these provisions to be in consonance with each other as follows:

\* Those types of treatment for autism spectrum disorders specifically delineated by Act 62--"pharmacy care, psychiatric care, psychological care, rehabilitative care and therapeutic care"--must be provided to the extent such treatments are medically necessary and prescribed and provided as set forth in the law, irrespective of whether those types of care are otherwise excluded by the policy.

\* Those types of services or treatments for autism spectrum disorders not specified by Act 62 may be subject to "general exclusions" of a policy under 40 P. S. § 764h(c), provided they are excluded "to the same extent" as for other medical services covered by the policy. By way of example, if a policy generally excludes acupuncture treatment, and an autism provider believes that acupuncture may provide some benefit to his autism patient, that particular treatment may nonetheless be excluded from the mandated coverage.

\* A policy may impose general limitations, such as scope and duration limitations, on coverage for autism spectrum disorders so long as such limitations are imposed "to the same extent" as those imposed upon other medical services covered by the policy. For example, if a policy or contract requires all medical services to be provided by a participating provider as a prerequisite for payment of services, autism services may also be required to be provided by a participating provider as a prerequisite for payment of those services.

\* Specific limitations on number of visits are impermissible under 40 P. S. § 764h(b) (disallowing a limitation on the "number of visits to an autism service provider for

treatment of autism spectrum disorders").

Finally, the Department has been asked whether autism is a mental health condition subject to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). Pub. L. No. 110-343, 122 Stat. 3881 (October 3, 2008) at sections 511 and 512, amending, inter alia, section 2705 of the Public Health Service Act (42 U.S.C. § 300gg-5). The Federal government is anticipated to issue regulations addressing this question on or before October 3, 2009. (See § 512(d)) The Department will continue to monitor developments at the Federal level, but is not taking any action on the limitations (including the monetary cap) issues at this time.

Questions regarding this notice may be addressed to Shelley D. Bain, J. D., Director, Bureau of Accident & Health Insurance, Insurance Department, 13th Floor, Strawberry Square, Harrisburg, PA 17120 by letter or by means of e-mail at [RA-in-autism@state.pa.us](mailto:RA-in-autism@state.pa.us).

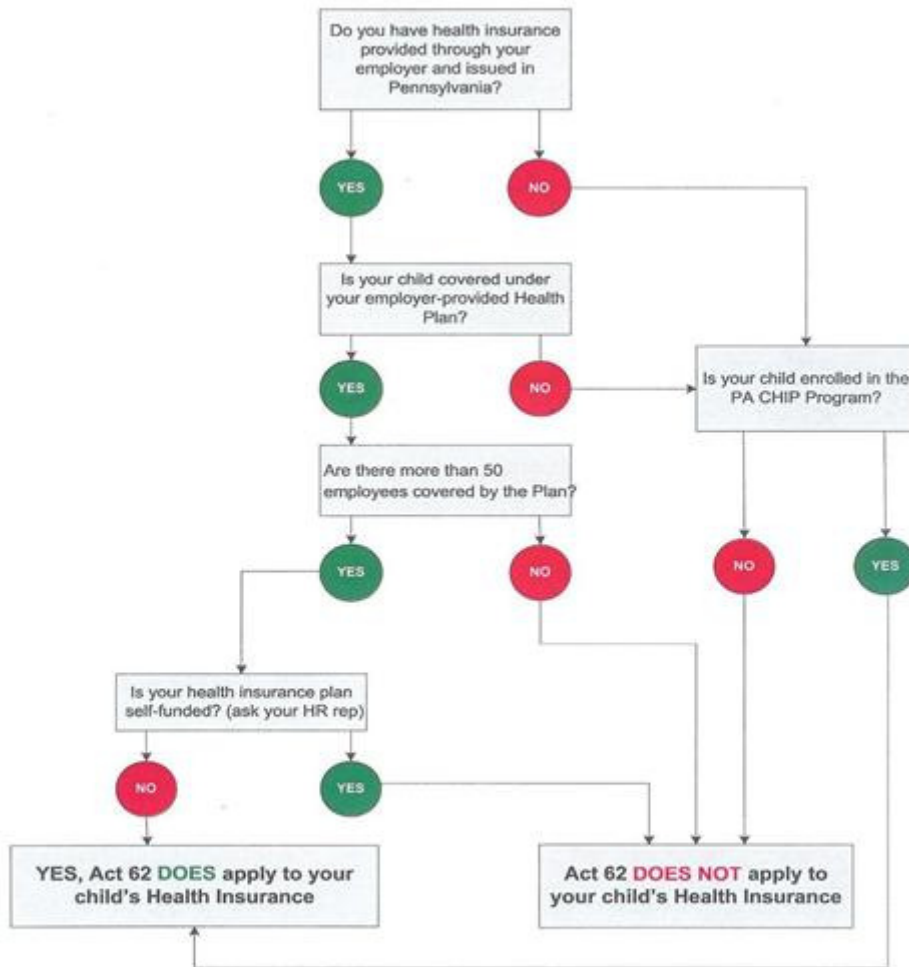
**JOEL SCOTT ARIO,**  
Insurance Commissioner

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## Does the Autism Insurance Act (Act 62) apply to your child?

Chart provided by PA Health Law Project



Website for autism families : [www.PAAutismInsurance.org](http://www.PAAutismInsurance.org)

- Helpful Information
- Educational Sessions
- FAQs

Electronic mailbox for questions: [ra-in0autism@stat.pa.us](mailto:ra-in0autism@stat.pa.us)