

# SENATE NO. 618

## **AN ACT** RELATIVE TO BENEFITS FOR AUTISM

*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 following  
2 section:-

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

12 (b) In addition to the coverage established pursuant to this section, any such health plan shall  
13 also provide coverage on a non-discriminatory basis for children and adolescents under the age  
14 of 19 for the diagnosis and treatment of following pervasive developmental disorders, as  
15 described in the most recent edition of the Diagnostic and Statistical Manual of the American

16 Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2)  
17 asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's  
18 disorder, and (5) childhood disintegrative disorder which substantially interfere with or  
19 substantially limit the functioning and social interactions of such a child or adolescent;  
20 provided, that said interference or limitation is documented by and the referral for said diagnosis  
21 and treatment is made by the primary care physician, primary pediatrician, or a licensed health  
22 professional of such a child or adolescent or is evidenced by conduct. Any such health plan shall  
23 continue to provide such coverage to any adolescent who is engaged in an ongoing course of  
24 treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified  
25 in said adolescent's treatment plan, is completed and while the benefit contract under which  
26 such benefits first became available remains in effect, or subject to a subsequent benefits  
27 contract which is in effect.

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

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

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

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

49 SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting the following  
50 new section after section 47B:-

51 Section 47C. (a) Any individual policy of accident and sickness insurance issued pursuant to  
52 section 108, which provides hospital expense and surgical expense insurance, and any group  
53 blanket or general policy of accident and sickness insurance issued pursuant to section 110,  
54 which provides hospital expense and surgical expense insurance, which is issued or renewed  
55 within or without the commonwealth, shall provide benefits on a nondiscriminatory basis to  
56 residents of the commonwealth and to all policyholders having a principal place of employment  
57 in the commonwealth for the diagnosis and treatment of the following pervasive developmental  
58 disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the  
59 American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic  
60 disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified,  
61 (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive

62 developmental disorders appearing in the DSM that are scientifically recognized and approved  
63 by the commissioner of the division of insurance.

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

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

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

88 (f) Nothing in this section shall be construed to require an insurer to pay for pervasive  
89 developmental disorder benefits or services: which are provided to a person who has third party  
90 insurance and who is presently incarcerated, confined or committed to a jail, house of correction  
91 or prison, or custodial facility in the department of youth services within the commonwealth or  
92 one of its political subdivisions; which constitute educational services required to be provided  
93 by a school committee pursuant to section 5 of chapter 71B; or which constitute services  
94 provided by the department of mental health or department of mental retardation.

95 SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after section  
96 8B, the following section:-

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

107 that are scientifically recognized and approved by the commissioner of the department of mental  
108 health in consultation with the commissioner of the division of insurance.

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

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

129 annual or lifetime dollar or unit of service limitation imposed on benefits for the diagnosis and  
130 treatment of physical conditions.

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

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

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

147 SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after section  
148 4C, the following section:-

149 Section 4D. (a) Any subscription certificate under an individual or group medical service  
150 agreement which is issued or renewed within or without the commonwealth shall provide  
151 pervasive developmental disorder benefits on a nondiscriminatory basis to residents of the

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

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

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

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

183 (e) Any such subscription certificate shall also provide medically necessary benefits for the  
184 diagnosis and treatment of all other pervasive developmental disorders not otherwise provided  
185 for in this section and which are described in the most recent edition of the DSM IV during each  
186 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24  
187 outpatient visits.

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

192 (g) Nothing in this section shall be construed to require a non-profit medical service corporation  
193 to pay for pervasive developmental disorder benefits or services: which are provided to a person  
194 who has third party insurance and who is presently incarcerated, confined or committed to a jail,  
195 house of correction or prison, or custodial facility in the department of youth services within the  
196 commonwealth or one of its political subdivisions; which constitute educational services  
197 required to be provided by a school committee pursuant to section 5 of chapter 71B; or which

198 constitute services provided by the department of mental health or department of mental  
199 retardation.

200 SECTION 5. Said chapter 176G is hereby amended by inserting after section 4N, as so  
201 appearing, the following section:-

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

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

221 of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a  
222 disorder, (3) a pattern of conduct or behavior caused by such a disorder which poses a serious  
223 danger to self or others. The health maintenance organization shall continue to provide such  
224 benefits to any adolescent who is engaged in an ongoing course of treatment beyond the  
225 adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's  
226 treatment plan, is completed and while the benefit contract under which such benefits first  
227 became available remains in effect, or subject to a subsequent benefits contract which is in  
228 effect.

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

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

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

243 (f) Nothing in this section shall be construed to require a health maintenance organization to pay  
244 for pervasive developmental disorder benefits or services: which are provided to a person who  
245 has third party insurance and who is presently incarcerated, confined or committed to a jail,  
246 house of correction or prison, or custodial facility in the department of youth services within the  
247 commonwealth or one of its political subdivisions; which constitute educational services  
248 required to be provided by a school committee pursuant to section 5 of chapter 71B; or which  
249 constitute services provided by the department of mental health or department of mental  
250 retardation.

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