

SENATE No.

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 passage of the accompanying bill:

An Act relative to insurance coverage for pervasive developmental disorders.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Thomas M. McGee

Third Essex and Middlesex

Robert A. O'Leary

Cape and Islands

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 AN ACT RELATIVE TO INSURANCE COVERAGE FOR PERVASIVE DEVELOPMENTAL
2 DISORDERS

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

5 SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the following section:-

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

14 (b) In addition to the coverage established pursuant to this section, any such health plan shall also
15 provide coverage on a non-discriminatory basis for children and adolescents under the age of 19 for the
16 diagnosis and treatment of following pervasive developmental disorders, as described in the most recent
17 edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this
18 section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental
19 disorder - not otherwise specified, (4) rett's disorder, and (5) childhood disintegrative disorder which
20 substantially interfere with or substantially limit the functioning and social interactions of such a child or
21 adolescent; provided, that said interference or limitation is documented by and the referral for said
22 diagnosis and treatment is made by the primary care physician, primary pediatrician, or a licensed health

23 professional of such a child or adolescent or is evidenced by conduct. Any such health plan shall continue
24 to provide such coverage to any adolescent who is engaged in an ongoing course of treatment beyond
25 the adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's
26 treatment plan, is completed and while the benefit contract under which such benefits first became
27 available remains in effect, or subject to a subsequent benefits contract which is in effect.

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

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

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

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

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

62 (b) In addition to the benefits established pursuant to this section, any such policy shall also provide
63 benefits on a non-discriminatory basis for children and adolescents under the age of 19 for the diagnosis
64 and treatment of pervasive developmental disorders, as described in the most recent edition of the DSM

65 IV, which substantially interfere with or substantially limit the functioning and social interactions of such a
66 child or adolescent; provided, that said interference or limitation is documented by and the referral for said
67 diagnosis and treatment is made by the primary care physician, primary pediatrician or a licensed health
68 professional of such a child or adolescent or is evidenced by conduct, including, but not limited to: (1) an
69 inability to attend school as a result of such a disorder, (2) the need to hospitalize the child or adolescent
70 as a result of such a disorder, or (3) a pattern of conduct or behavior caused by such a disorder which
71 poses 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 completed and
74 while the benefit contract under which such benefits first became available remains in effect, or subject to
75 a subsequent benefits contract which is in effect.

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

81 (e) Any such policy shall also provide medically necessary benefits for the diagnosis and treatment of all
82 other pervasive developmental disorders not otherwise provided for in this section and which are
83 described in the most recent edition of DSM during each 12 month period for a minimum of 60 days of
84 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 and sickness
86 insurance issued from paying for pervasive developmental disorder benefits or services: which are
87 provided to a person who has third party insurance and who is presently incarcerated, confined or
88 committed to a jail, house of correction or prison, or custodial facility in the department of youth services
89 within the commonwealth or one of its political subdivisions; including those which constitute educational
90 services and would otherwise be required to be provided by a school committee pursuant to section 5 of
91 chapter 71B; or which constitute services provided by the department of mental health or department of
92 mental retardation.

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

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

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

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

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

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

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

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

141 Section 4D. (a) Any subscription certificate under an individual or group medical service agreement which
142 is issued or renewed within or without the commonwealth shall provide pervasive developmental disorder
143 benefits on a nondiscriminatory basis to residents of the commonwealth and to all individual subscribers
144 and members within the commonwealth and to all group members having a principal place of
145 employment in the commonwealth for the diagnosis and treatment of the following pervasive
146 developmental disorder, as described in the most recent edition of the Diagnostic and Statistical Manual
147 of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder,

148 (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder,
149 and (5) childhood disintegrative disorder, and (6) any pervasive developmental disorders appearing in the
150 DSM Association that are scientifically recognized and approved by the commissioner of the division of
151 insurance.

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

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

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

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

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

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

188 Section 40. (a) A health maintenance contract issued or renewed within or without the commonwealth
189 shall provide pervasive developmental disorder benefits on a nondiscriminatory basis to residents of the
190 commonwealth and to all members or enrollees having a principal place of employment in the
191 commonwealth for the diagnosis and treatment of the following pervasive developmental disorders, as
192 described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric
193 Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3)
194 pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood
195 disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM that are
196 scientifically recognized and approved by the commissioner of the division of insurance.

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

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

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

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

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

231 SECTION 6. All policies, contracts and certificates of health insurance subject to the provisions of
232 section 22 of chapter 32, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter
233 176B, and section 4M of chapter 176G of the General Laws which are delivered, issued, or renewed on
234 or after January 1, 2002 shall conform with the provisions of this act. Form filings implementing this act
235 shall be subject to the approval of the commissioner of insurance.

236