



COLORADO

Senate Bill 09-244/ Health Insurance Mandated Autism Treatment (HIMAT)

*How the Autism Insurance Mandate Will Affect
Your Coverage for ABA Therapy*



Please note!

The following material is for informational purposes ONLY and is not meant to be construed as legal advice. You must check with your insurance company or legal consultant for verification of specific benefits that may be available to you under your insurance plan.



Overview

- Facts about HIMAT
- Will my plan cover what's required by the law and how will I know?
- What should I do at Open Enrollment time?
- If I am covered, do I have any out-of-pocket costs?
- Insurance companies and what they are required to do.
- What do I do if my insurance company should cover this but denies my claims?
- What if my insurance doesn't have to follow the law?
- CARD – which insurance companies do we contract with?
- Conclusion



Why are Autism Coverage Mandates Needed?

- As recently as the late-1990s, insurance companies in most states were allowed to completely reject any claims submitted with a diagnosis of Autism.
- The reason? The opinion of the medical insurance establishment was that there was no treatment available from any type of provider which could produce a significant improvement- none.
- No coverage for any type of service or medication whether provided by an M.D., Speech Therapist, Occupational Therapist, anyone!
- Today, this is far from the truth, because there is verifiable proof that there are many types of medical and therapeutic treatments which can greatly improve the lives of children with Autism, and can even cause Recovery.



Facts about HIMAT

- Requires coverage for the diagnosis, assessment and treatment of Autism Spectrum Disorders: Autism, Asperger's and Pervasive Developmental Disorder (PDD-NOS)
- **Seven treatment categories** are mandated by HIMAT for the treatment of autism:
 - **Evaluation and Assessment Services**
 - **Applied Behavioral Analysis therapy and behavioral therapies if provided by an Autism Services Provider**
 - **Habilitative or Rehabilitative Care which generally includes Occupational Therapy, Speech Therapy and Physical Therapy**
 - **Therapeutic Care, including “but not limited to” OT, ST, PT and ABA if the services are provided by a speech language pathologist, registered occupational therapist, licensed physical therapist or Autism Services Provider**
 - **Psychological Care, including Family Counseling (direct or consultative services provided by a licensed psychologist or social worker)**
 - **Medications if prescription drug coverage is covered benefit under the plan**
 - **Psychiatric Care (direct or consultative services provided by a licensed psychiatrist)**



Facts about HIMAT

- Affected plans must cover costs for **Speech Therapy, Occupational Therapy and Physical Therapy** with no visit limits or special dollar limits.
- Affected plans must cover costs for diagnosis and screenings as well as medically necessary Behavioral Therapy, including:
 - Applied Behavioral Analysis (ABA)**
- For Applied Behavioral Analysis only, affected plans must cover at least **\$34,000/year** from birth through 8 and at least **\$12,000/year** from age 9 through age 18.



Facts about HIMAT

- Covered behavioral therapy **must be prescribed by a licensed physician or licensed psychologist**, meaning they have to say that the services are medically necessary to treat the child's condition.
- Behavioral Therapy coverage is required if medically necessary and provided or supervised by an **Autism Services Provider**.
- Became Effective on **July 1, 2010**...but your employer's plan didn't have to start coverage until the next renewal date on or after 7-1-10. Example: If your plan has an open enrollment in September, plan changes should have been effective on October 1, 2010. At this point all plans that are required to comply with HIMAT should include the coverage.
- Plans cannot add special visit limits, dollar limits or increased copayments based solely on an ASD diagnosis.
- Insurance Carriers can require providers to submit treatment plans for prior approval of services (usually every 3-6 months).



Facts about HIMAT

- The law applies to group employer health plans but if you are self employed check with a qualified health insurance broker about a Small-Group policy for a “Business of 1” which should have coverage.
- The law does NOT apply to the following types of medical plans so they are NOT required to provide coverage:
 - **Individual plans**
 - **Self-Funded ERISA plans (usually larger employer groups who fund their own claims), unless it’s a Colorado State Employee plan**
 - **Plans issued/underwritten in a state other than Colorado**
 - **Medicaid coverage or Child Health Plan Plus (CHP+)....see info on page 13 for the Medicaid Waiver plans.**
 - **Federal employee programs**



Facts about HIMAT

What types of providers does HIMAT require carriers to cover for ABA therapy?

- HIMAT requires coverage for 5 types of providers which it calls Autism Services Providers which is any person who provides direct services to a person with ASD, is licensed, certified, or registered by the applicable state licensing board or by a nationally recognized organization and is one of the following:
 1. A provider that has a doctorate with a specialty in psychiatry, medicine or clinical psychology, is actively licensed by the state board of medical examiners, and has one year of direct experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with ASD.



Facts about HIMAT

What types of providers does HIMAT require carriers to cover for ABA therapy?

2. A provider that has a doctorate in one of the behavioral or health sciences and has completed one year of experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with ASD.
3. A provider that has a master's degree or higher in behavioral sciences and is nationally certified as a Board Certified Behavior Analyst (BCBA) or certified by a similar nationally recognized organization.



Facts about HIMAT

What types of providers does HIMAT require carriers to cover for ABA therapy?

4. A provider that has a master's degree or higher in one of the behavior or health sciences, is credentialed as a physical therapist, occupational therapist, or speech therapist, and has completed one year of direct supervised experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with ASD.
5. A provider that has a baccalaureate degree or higher in behavioral sciences and is nationally certified as a Board Certified Associate Behavior Analyst (BCaBA) or certified by a similar nationally recognized organization.



Facts about HIMAT

WHAT ABOUT DIRECT 1:1 ABA THERAPY SERVICES?

- Paraprofessionals that work the 1:1 therapy hours (usually between 10-40 hours a week), sometimes called line-therapists, are not specifically referenced in HIMAT but most carriers are covering services if supervised by an Autism Services Provider.
- Many carriers do have minimum training and education requirements for the 1:1 therapists which are in line with current professional standards. Most of the time what they require is reasonable.



Colorado Coverage Information You Need to Know!

There are Medicaid Waiver options that can cover ABA therapy:

- Children With Autism (CWA) Waiver
- Children's Extensive Support (CES) Waiver

Go to www.colorado.gov/hcpf for eligibility and benefit information.

For information about Early Intervention services (birth to age 3)

go to www.eicolorado.org



Colorado Coverage Information You Need to Know!

The State of Colorado has passed Laws/Regulations that provide special protection in regard to insurance coverage:

- Network Adequacy. In any case where the carrier has no participating providers to provide a covered benefit, the carrier shall arrange for a referral to a provider with the necessary expertise and ensure that the covered person obtains the covered benefit at no greater cost to the covered person than if the benefit were obtained from participating providers.
- Preauthorization: When a treatment or procedure has been preauthorized by the plan, benefits cannot be retrospectively denied except for fraud and abuse. If a health carrier provides preauthorization for treatment or procedures that are not covered benefits under the plan, the carrier shall provide the benefits as authorized with no penalty to the covered person.



Colorado Coverage Information You Need to Know!

The State of Colorado has passed Laws/Regulations that provide special protection in regard to insurance coverage:

- Unreasonable Denial or Delay of Payment. These statutes allow a claimant to bring an action in district court against an insurer to recover reasonable attorney's fees and court costs and two times the covered benefit if an insurer unreasonably denies or delays payment of a covered benefit. These statutes do not apply to all types of insurance and may be preempted by ERISA in some cases.
- Prompt payment of claims. This statute says, among other things, that carriers must pay or settle claims within the time frames set forth in the statute. If clean claims are not paid or settled within the statutory time frames, the carrier must pay interest at 10% and penalties.



Self-Funded Companies That Have Added Coverage for ABA Therapy

Some Larger Employer plans have decided to add benefits after administrators received input from employees about how much the benefits are needed. Just because they don't "have to" pay for ABA under state law, doesn't mean they can't or won't.

- Adobe Systems Inc.
- AOL
- Arnold & Porter
- Aspect Software
- Capital One Financial Corp.
- CISCO
- City of Atlanta
- Deloitte
- Eli Lilly
- Google
- Greenbille Hospital System
- Halliburton
- Home Depot
- Intel
- Lexington Medical Center
- Mayo Clinic
- McAfee
- Michelin
- Microsoft
- Morrison and Foerster
- NVidia
- Ohio State University
- Oracle
- Progressive Group
- State Farm
- Symantec
- Time Warner, Inc. (not Time Warner Cable)
- University of Minnesota
- Wells Fargo
- Yahoo Inc.

Also, the Department of Defense has had a \$36,000 per year benefit for over three years now that applies to all active duty military families. The tide is turning!!



What's going on in the rest of the country?

While carriers in many states still exclude coverage for ABA Therapy, there are now 27 states that have passed laws mandating coverage for behavioral therapies including ABA.

- Arizona
- Arkansas
- Colorado
- Connecticut
- Florida
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Massachusetts
- Missouri
- Montana
- Nevada
- New Hampshire
- New Jersey
- New Mexico
- Pennsylvania
- Rhode Island
- South Carolina
- Texas
- Vermont
- Virginia
- West Virginia
- Wisconsin



What's going on in the rest of the country?

We live in Colorado – why might the 27 states matter to you???

- If your plan is issued by an insurance company that is subject to the mandates mentioned for any of these states.....you may have coverage now!!!!
- Check your ID card to see if there is any indication that your plan is issued through a company licensed in one of these states.
- Check with your HR department or your insurance carrier if you are not sure.



How the Federal Mental Health Parity Act Can Improve HIMAT!

The Federal Mental Health Parity Act Can Eliminate the Dollar Maximum!!

Another positive change that has had a huge impact on coverage is the federal Mental Health Parity Act (the “Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008”) that took effect on 10-3-2009. This federal law requires parity in benefits for mental health and substance abuse disorders. Basically, this law says that carriers cannot have a benefit limit or dollar maximum for a mental health diagnosis that isn’t also applied to any other medical condition. In effect, this federal law overrides most of the state laws that include a calendar year dollar maximum for autism treatment. For example, the Illinois law only requires plans to cover up to \$36,000 per year. The federal law would not allow a maximum for autism if there were no such maximum for all other medical diagnoses. As a result, this law overrides the state law and the \$36,000 maximum had to be removed. Benefits would be unlimited and all appropriate ABA services would have to be covered. The Mental Health Parity Act took effect for any large group employer plan (50 or more employees) on the plan’s annual renewal date on or after 10-3-2009.

There are a few exceptions:

- Self-insured plans (larger employer groups who fund their own claims) that are considered a state government entity (a city, county, school district, fire department, etc.) can opt out of compliance with this federal law.
- Individual plans and group employer plans with less than 50 employees are not subject to this law.



Federal Health Insurance Reform Bill Signed Into Law on March 23, 2010 ABA Coverage Will Be Mandatory in 2014!!!

IMPORTANT NEWS:

- The federal Health Insurance Reform Bill was signed by President Obama and includes an amendment for Autism Insurance Reform that would require coverage for ABA therapy with no yearly dollar maximum on coverage. By 2014, most health care plans will be required to cover ABA therapy.
- Here's what it says: ABA coverage will be required starting in 2014 (when the exchanges start) through language found in an amendment to the bill added by Senator Menendez. The language was broadly written and requires coverage of "Behavioral Health Treatments" which would include ABA. This excerpt is from New Jersey Senator Robert Menendez Web site: "... require insurance plans to provide behavioral health treatments. Plans in the exchange must cover behavioral health treatments as part of the minimum benefits standard. For example, applied behavior analysis is a behavioral health treatment for people with autism. Unless behavioral health treatment is explicitly spelled out as a covered benefit, people with autism are not likely to receive comprehensive healthcare."
The "exchange" plans will define the "minimum coverage" for a plan to be counted towards having purchased appropriate coverage under the new requirements. This means that plans can be sold that do not include all of these things, but they would not qualify as insurance coverage which would exempt people from paying the fee for not having insurance coverage. This means, that the vast majority of plans will include this benefit.
- If the legislation remains as is (meaning it's not overturned or revised) we should be in great shape by 2014. I guess we can't hold our breath just yet!!!



Will my plan cover what's required by the law and how will I know?

- If your health insurance card is marked with “CO-DOI” you will most likely have the coverage mandated by HIMAT.
- If you have medical insurance through a group employer then your plan should provide Behavioral Therapy coverage effective 7-1-10 (or by the next plan renewal date after 7-1-10). Even if your plan is self-funded or issued out of state (which means they aren't required to cover it) they can cover it and may be planning to comply with the law.
- You should look in your Evidence of Coverage booklet or Summary Plan description (the document that they have to give you that lists all of your benefits, info about filling claims, grievances, etc.) for a reference to these benefits.
- You may have to call your employer's HR department or the insurance carrier to find out exactly what is happening with your benefits.
- Review the “Insurance Information Sheet” located on our website and ask your HR contact or your insurance carrier to provide answers. Always ask for information in writing (hard to get sometimes) and always get the name of whomever you are speaking with.



What should I do at Open Enrollment time?

- Be careful at OPEN ENROLLMENT!!! Your company might offer 2-3 different plans and one plan may be required to cover it but the others might not!!!
- Review the “**Open Enrollment Worksheet**” located on our website and ask your HR contact or your insurance carrier to provide answers. Always ask for information in writing (hard to get sometimes) and always get the name of whomever you are speaking with.
- After you chose your plan, benefits should begin by the next plan renewal date after the end of Open Enrollment. Example: If your plan has an open enrollment in November/December then plan changes are most likely effective on January 1st (check dates with your HR department).



What should I do at Open Enrollment time?

- **Picking a Plan:**

- Ask your HR contact to tell you which plans will cover HIMAT benefits. **They have to get an answer for you!** Always ask for information in writing and always get the name of whomever you are speaking with.
- **HMO and POS** plans will most likely have to comply with the law. These plans require you to choose a Primary Care Doctor who may be in charge of referring you to an ABA provider.
- **PPO** plans may be self-funded or issued through another state so don't be surprised if they say the PPO plan will not be implementing the benefits. These plans usually pay a higher percentage (80-90%) for participating providers and will most likely have a calendar year deductible.
- **Mental Health Carve-Out Carriers.** Some bigger companies have one company paying their medical claims and another paying their mental health claims (they “carve-out” those claims and hire another company to handle them). Example: you may think you have Aetna for your insurance but your mental health claims may be handled by CIGNA!!



If I am covered, do I have any out-of-pocket costs?

- Plans may require a flat, **dollar copayment or co-insurance** (you pay a percentage of the bill 10-40%).
- **PPO plans and some POS plans** usually require a calendar year deductible before they pay benefits. They usually have out-of-pocket maximums and, once you pay a certain dollar amount in coinsurance, they start paying at 100% for the rest of the year.
- **If your provider is a Participating Provider** with your insurance carrier then they will bill insurance for you and then bill you for any copayments or deductibles.
- **If your provider is NOT Participating** with your insurance carrier then they probably won't bill for you so you will have to pay them privately and then submit bills to the insurance carrier for reimbursement. If you have a PPO plan then they should cover a percentage of the cost after your deductible is satisfied.
- **Important Note Regarding Access to Care:** If your plan is subject to the law, no matter what type of plan you have, if they don't have a participating ABA provider in your area they will have to refer you to a non-participating provider and provide benefits at the highest level.



Insurance companies and what they are required to do

- If your plan is subject to HIMAT then the insurance carrier must cover Behavioral Therapy services at the same benefit level as other medical care, however they may impose the \$34,000/\$12,000 limit.
- They have to provide access to care. If you have an HMO or PPO plan and they don't have any participating providers in your area (usually within 30-50 miles of where you live), they will have to arrange or authorize care from a non-participating provider and cannot make you pay the higher out of pocket costs. They may also set up single case agreements with providers like CARD just to handle your needs.
- HMO plans that do have ABA providers participating with them may refer you only to those providers. It can be hard to get referrals to the providers you want through an HMO.
- They have to pay appropriate claims within a reasonable time frame. Your benefit booklet will describe claims procedures.



What do I do if my insurance company should cover this but denies my claims?

- This benefit is still new so some companies may take a while to get up to speed. They may deny your claims saying it's:
 - Not medically necessary;
 - An Invalid Diagnosis;
 - Not covered because the provider isn't licensed;
 - For an experimental or investigational service; or
 - Not a covered benefit.
- Get a copy of your benefit booklet (called an EOC or SPD). By law it has to tell you step by step how to request reconsideration, file a grievance, etc. Print out those pages and review the steps. It has to tell you how long you have to file, how long they have to respond and what to do next.
- The Colorado Division of Insurance is in charge of making sure insurance companies follow HIMAT. If you feel they are not doing what they should under the law contact:
Colorado Division of Insurance
www.dora.state.co.us/insurance
(303) 894-7490



What if my Insurance doesn't have to follow the law?

- You can request that your carrier comply with HIMAT. During open enrollment you can discuss the need for this benefit with your employers HR department.
- Some self-funded plans have decided to implement HIMAT benefits after administrators received input from employees about how much the benefits are needed. Just because they don't "have to" comply doesn't mean they can't or won't.
- Even if there are no Behavioral Therapy benefits you can still submit your claims and ask for coverage based on medical necessity. If they reject your claim, follow the grievance procedures in your book and see what happens. Of course you would have to pay for the therapy up front which is not possible for most families. People are fighting to get this covered even in states where there is no law requiring coverage and they have been winning so it's always worth a try if you are paying privately anyway.



CARD – which insurance companies do we contract with?

CARD is working to contract with all the major insurance companies.

We currently contract with:

- CIGNA
- TRICARE
- MHN (Mental Health Networks)
- Several Blue Cross/Blue Shield plans which will soon include Anthem Blue Cross/Blue Shield of Colorado!
- Magellan (a mental health carve-out-carrier)
- UnitedHealth
- LifeSynch

We haven't given up on the others and will continue to work on increasing our participation. Many carriers still have no network for ABA therapy, therefore there is nothing for us to join!!



Helpful Web-sites

- Autism Society of Colorado
<http://www.autismcolorado.org>
- Colorado Division of Insurance
<http://www.dora.state.co.us/insurance>
- Autism Votes/Autism Speaks
<http://www.autismvotes.org/site>



Helpful Web-sites

- TACA-Talk About Curing Autism Now
<http://www.talkaboutcuringautism.org/resources/autism-insurance/insurance-coverage-for-biomedical-traditional-treatments.htm>
- United Health Care Children's Fund -UHCCF
(a grant that can cover insurance co-payments for children up to age 16) <http://www.uhccf.org/>
- CARD- a copy of this PowerPoint can found here:
<http://www.centerforautism.com/>



Conclusion

HIMAT was enacted by the great state of Colorado and has had a massive impact on the success of children dealing with Autism Spectrum Disorders. We thank those amazing parents, providers and advocacy groups who helped the state realize the undeniable need to enact this law.

WE THANK YOU!