

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2010**

vided by licensed occupational therapists, physical therapists, speech-language pathologists or clinical social workers working with children from birth to 36 months of age with an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C, 20 United States Code, Section 1411, et seq.

**2. Required coverage.** All group health insurance policies, contracts and certificates must provide coverage for children's early intervention services in accordance with this subsection.

A. A referral from the child's primary care provider is required.

B. The policy, contract or certificate may limit coverage to \$3,200 per year for each child not to exceed \$9,600 by the child's 3rd birthday.

C. The policy, contract or certificate may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**Sec. 4. 24-A MRSA §4258** is enacted to read:

**§4258. Coverage for children's early intervention services**

**1. Definition.** For purposes of this section, "children's early intervention services" means services provided by licensed occupational therapists, physical therapists, speech-language pathologists or clinical social workers working with children from birth to 36 months of age with an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C, 20 United States Code, Section 1411, et seq.

**2. Required coverage.** All individual and group health maintenance organization policies, contracts and certificates must provide coverage for children's early intervention services in accordance with this subsection.

A. A referral from the child's primary care provider is required.

B. The policy, contract or certificate may limit coverage to \$3,200 per year for each child not to exceed \$9,600 by the child's 3rd birthday.

C. The policy, contract or certificate may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**Sec. 5. Application.** This Act applies to health insurance policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2011. For purposes of this Act, all contracts are deemed to be renewed no

later than the next yearly anniversary of the contract date.

See title page for effective date.

**CHAPTER 635**

**S.P. 446 - L.D. 1198**

**An Act To Reform Insurance Coverage To Include Diagnosis and Treatment for Autism Spectrum Disorders**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 24 MRSA §2317-B, sub-§12-F** is enacted to read:

**12-F. Title 24-A, sections 2766, 2847-R and 4258.** Coverage for diagnosis and treatment of autism spectrum disorders, Title 24-A, sections 2766, 2847-R and 4258:

**Sec. 2. 24-A MRSA §2766** is enacted to read:

**§2766. Coverage for the diagnosis and treatment of autism spectrum disorders**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:

- (1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of be-

havior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;

(2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and

(3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.

**2. Required coverage.** All individual health insurance policies and contracts must provide coverage for autism spectrum disorders for an individual covered under a policy or contract who is 5 years of age or under in accordance with the following.

A. The policy or contract must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder.

B. The policy or contract must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary health care as defined in section 4301-A, subsection 10-A. A licensed physician or licensed psychologist may be required to demonstrate ongoing medical necessity for coverage provided under this section at least annually.

C. The policy or contract may not include any limits on the number of visits.

D. The policy or contract may limit coverage for applied behavior analysis to \$36,000 per year. An insurer may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph.

E. This subsection may not be construed to require coverage for prescription drugs if prescription drug coverage is not provided by the policy or contract. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition is determined under the policy or contract.

**3. Limits; coinsurance; deductibles.** Except as otherwise provided in this section, any policy or contract that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**4. Individualized education plan.** This section may not be construed to affect any obligation to provide services to an individual with an autism spectrum disorder under an individualized education plan or an individualized family service plan.

**Sec. 3. 24-A MRSA §2847-R** is enacted to read:

**§2847-R. Coverage for the diagnosis and treatment of autism spectrum disorders**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:

(1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of behavior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;

(2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and

(3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.

**2. Required coverage.** All group health insurance policies, contracts and certificates must provide coverage for autism spectrum disorders for an individual covered under a policy, contract or certificate who

is 5 years of age or under in accordance with the following.

A. The policy, contract or certificate must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder.

B. The policy, contract or certificate must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary health care as defined in section 4301-A, subsection 10-A. A licensed physician or licensed psychologist may be required to demonstrate ongoing medical necessity for coverage provided under this section at least annually.

C. The policy, contract or certificate may not include any limits on the number of visits.

D. Notwithstanding section 2843 and to the extent allowed by federal law, the policy, contract or certificate may limit coverage for applied behavior analysis to \$36,000 per year. An insurer may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph.

E. This subsection may not be construed to require coverage for prescription drugs if prescription drug coverage is not provided by the policy, contract or certificate. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition is determined under the policy, contract or certificate.

**3. Limits; coinsurance; deductibles.** Except as otherwise provided in this section, any policy, contract or certificate that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**4. Individualized education plan.** This section may not be construed to affect any obligation to provide services to an individual with an autism spectrum disorder under an individualized education plan or an individualized family service plan.

**Sec. 4. 24-A MRSA §4258** is enacted to read:

**§4258. Coverage for the diagnosis and treatment of autism spectrum disorders**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:

(1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of behavior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;

(2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and

(3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.

**2. Required coverage.** All individual and group health maintenance organization contracts must provide coverage for autism spectrum disorders for an individual covered under a contract who is 5 years of age or under in accordance with the following.

A. The contract must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder.

B. The contract must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary health care as defined in section 4301-A, subsection 10-A. A licensed physician or licensed psychologist may be required to demonstrate on-

going medical necessity for coverage provided under this section at least annually.

C. The contract may not include any limits on the number of visits.

D. Notwithstanding section 4234-A and to the extent allowed by federal law for group contracts, the contract may limit coverage for applied behavior analysis to \$36,000 per year. A health maintenance organization may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph.

E. This subsection may not be construed to require coverage for prescription drugs if prescription drug coverage is not provided by the contract. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition is determined under the contract.

**3. Limits; coinsurance; deductibles.** Except as otherwise provided in this section, any contract that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**4. Individualized education plan.** This section may not be construed to affect any obligation to provide services to an individual with an autism spectrum disorder under an individualized education plan or an individualized family service plan.

**Sec. 5. Bureau of Insurance report.** The Department of Professional and Financial Regulation, Bureau of Insurance shall review and evaluate the financial impact, social impact and medical efficacy of the mandated health insurance benefit required in this Act after its enactment in the same manner as required for proposed mandated health benefits legislation in the Maine Revised Statutes, Title 24-A, section 2752. The bureau shall also compare the projected cost impact of this mandated benefit prior to enactment and the actual cost impact of the mandated benefit based on premium information after enactment. As part of its assessment of the financial impact of the mandate, the bureau shall analyze the number of children receiving coverage under the mandated benefit, the costs of treatment services for autism spectrum disorders, including applied behavior analysis, and the extent to which the requirement for coverage of applied behavior analysis has affected the actual cost impact of the mandated benefit on health insurance premiums. The bureau shall contract within the bureau's existing budgeted resources for any necessary consulting and actuarial expertise to complete the report required by this section. The bureau shall submit a report, includ-

ing any recommendations for legislation, to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters no later than February 1, 2015. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill based on the report to the First Regular Session of the 127th Legislature.

**Sec. 6. Application.** The requirements of this Act apply to all policies, contracts and certificates subject to this Act that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2011. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

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## CHAPTER 636

### H.P. 333 - L.D. 445

#### An Act To Improve Tribal-State Relations

Be it enacted by the People of the State of Maine as follows:

#### PART A

**Sec. A-1. 3 MRSA §1, 2nd ¶**, as enacted by PL 1983, c. 481, is amended to read:

The Tribal Clerk of the Penobscot Indian Nation shall, on or before the day preceding the meeting of the Legislature, furnish to the Clerk of the preceding House of Representatives a certification, under the seal of the Nation, of the name and residence of the Representative-elect of the Penobscot Indian Nation to the Legislature. The Tribal Clerk of the Passamaquoddy Tribe of the reservation from which the Representative-elect of that tribe has been chosen shall, on or before the day preceding the meeting of the Legislature, furnish the Clerk of the preceding House of Representatives a certification of the name and residence of the Representative-elect of the Passamaquoddy Tribe to the Legislature. Beginning with the 126th Legislature, the Tribal Clerk of the Houlton Band of Maliseet Indians shall, on or before the day preceding the meeting of the Legislature, furnish to the Clerk of the preceding House of Representatives a certification of the name and residence of the Representative-elect of the Houlton Band of Maliseet Indians to the Legislature.

**Sec. A-2. 3 MRSA §2, 8th ¶**, as amended by PL 2009, c. 431, §1, is further amended to read:

The member of the Penobscot Indian Nation ~~and~~, the member of the Passamaquoddy Indian Tribe and, beginning with the Second Regular Session of the