

State of Idaho
DEPARTMENT OF INSURANCE

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BULLETIN NO. 18-02

DATE: April 2, 2018
TO: Disability/Health Insurance Carriers offering Health Benefit Plans, Self-funded Plans
FROM: Dean L. Cameron, Director
SUBJECT: Clarification Regarding Coverage of Treatments for Autism Spectrum Disorder

Due to the currently inconsistent coverage of treatments for autism spectrum disorder by Idaho health plans, the Department of Insurance is clarifying that such treatments cannot be excluded from coverage if rehabilitative or habilitative services are covered. All health benefit plans (as defined in Idaho Code section 41-5203(12))¹ regulated by the Department and subject to the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and Section 1557 of the Affordable Care Act, including the individual, small group, and large group insured markets and self-funded health benefit plans subject to Idaho Code, title 41, chapters 40 or 41, must follow the guidance in this bulletin for plan years starting on or after January 1, 2019.

The Department understands that if a group health plan or health insurance coverage includes medical/surgical benefits and mental health/substance use disorder benefits, under the MHPAEA an applicable health plan cannot impose limitations on a numerical basis, e.g. financial, visit limits or day limits (quantitative); or other basis, e.g., medical management, (non-quantitative); unless, under the terms of the plan any such limitation of MH/SUD benefits such as treatments for autism is comparable to, and is applied no more stringently than, the standards and factors used in applying the limitation with respect to medical surgical/benefits under the plan. (See, 78 F.R. 68240 (November 13, 2013)). In addition, Section 1557 of the Affordable Care Act prohibits insurers from discriminating in the provision of healthcare benefits on the basis of disability such as autism, including adopting or implementing discriminatory benefit designs. 42 U.S.C. § 18116; see 45 C.F.R. Part 92. Based on the foregoing laws, the Department will consider an exclusion of treatments for autism spectrum disorder as discriminatory and prohibited when a plan includes coverage of rehabilitative or habilitative services, such as coverage of occupational therapy or speech therapy.

Treatments for autism spectrum disorder are to be considered part of Idaho's Essential Health Benefits (EHB) package under mental health services including behavioral health treatment; and therefore the coverage of such treatments must be: consistent with other mental health services (including applicable deductibles, copayments, or coinsurance), not subject to any separate dollar limits or visit limits, and in parity with medical and surgical benefits. Nothing in this bulletin should

¹ See also, section 41-2221(2)(a), Idaho Code, (large employers (51+ employees); and, section 41-4703(12), Idaho Code (small employers (2 to 50 employees)).

be construed to limit a carrier from evaluating and determining the medical necessity of treatments for autism spectrum disorder. Carriers may establish a policy to periodically review the medical necessity of continuing autism spectrum disorder related treatments.

When applying this bulletin, “autism spectrum disorder” means any of the pervasive developmental disorders or autism spectrum disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).² In accordance with this guidance, “treatments for autism spectrum disorder” means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed psychologist who determines the care to be medically necessary, including but not limited to behavioral health treatment, pharmacy care, psychiatric care, psychological care, and therapeutic care.

² <https://www.psychiatry.org/psychiatrists/practice/dsm>