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BULLETIN NO. 2015-013

TO: EVERY INSURER, NONPROFIT HEALTH CARE PLAN, HEALTH
MAINTENANCE ORGANIZATION, AND PREPAID DENTAL PLAN
TRANSACTING BUSINESS IN NEW MEXICO

FROM: JOHN G. FRANCHINI, SUPERINTENDENT OF INSURANCE

DATE: MARCH 25, 2015

RE: AUTISM BENEFITS - INDIVIDUAL AND SMALL GROUP PLANS

This Bulletin is issued pursuant to Section 59A-2-8 NMSA 1978 of the New Mexico Insurance Code, 13.1.2 *et seq.* NMAC.

New Mexico's current mandate on autism coverage directs carriers to include autism spectrum benefits in their major medical health plans (Section 59A-22-49 NMSA 1978. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT) and was created prior to the passage of the Affordable Care Act. The Affordable Care Act eliminated limits for commercial individual and small group plans. Therefore the limits outlined in the existing mandate are non-enforceable for commercial individual and small group major medical plans and will not be enforced by New Mexico Office of Superintendent of Insurance.

The Affordable Care Act makes an exception for large group plans, so the foregoing does not apply to large group plans. However, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008¹ does apply to large groups, and autism spectrum disorder as defined in 59A-22-49 and the Diagnostic and Statistical Manual of Mental Disorders IV and DSM V is a mental health condition covered by MHPAEA. Accordingly, pursuant to MHPAEA, 29 U.S.C. §1185a and its implementing regulations at 45 CFR §§146.136 and 147.160, quantitative limits on this coverage cannot be imposed or enforced unless the insurer imposes the same limits as the predominant treatment limitation on substantially all of its medical or surgical outpatient coverage.


Additionally, the existing mandate specifies the autism definition found in DSM IV. The current manual used by the autism treatment providers is DSM V. New Mexico Office of Superintendent of Insurance

¹ The Final Rules implementing MHPAEA were published in the Federal Register on November 13, 2013. 78 FR 219.

will be seeking statutory change at the earliest opportunity to make the definition the one found in the current version of the manual.

ISSUED at Santa Fe, New Mexico on March 25, 2015.

OFFICE OF NEW MEXICO SUPERINTENDENT OF INSURANCE



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Superintendent of Insurance