



649702

CHAMBER ACTION

Senate

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House

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1 Senator Geller moved the following **amendment to amendment**  
2 **(370293)** :

3  
4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

7 Section 1. Subsection (26) is added to section 409.906,  
8 Florida Statutes, to read:

9 409.906 Optional Medicaid services.--Subject to specific  
10 appropriations, the agency may make payments for services which  
11 are optional to the state under Title XIX of the Social Security  
12 Act and are furnished by Medicaid providers to recipients who are  
13 determined to be eligible on the dates on which the services were  
14 provided. Any optional service that is provided shall be provided  
15 only when medically necessary and in accordance with state and  
16 federal law. Optional services rendered by providers in mobile  
17 units to Medicaid recipients may be restricted or prohibited by

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18 the agency. Nothing in this section shall be construed to prevent  
19 or limit the agency from adjusting fees, reimbursement rates,  
20 lengths of stay, number of visits, or number of services, or  
21 making any other adjustments necessary to comply with the  
22 availability of moneys and any limitations or directions provided  
23 for in the General Appropriations Act or chapter 216. If  
24 necessary to safeguard the state's systems of providing services  
25 to elderly and disabled persons and subject to the notice and  
26 review provisions of s. 216.177, the Governor may direct the  
27 Agency for Health Care Administration to amend the Medicaid state  
28 plan to delete the optional Medicaid service known as  
29 "Intermediate Care Facilities for the Developmentally Disabled."  
30 Optional services may include:

31 (26) HOME AND COMMUNITY-BASED SERVICES for AUTISM SPECTRUM  
32 DISORDER AND OTHER DEVELOPMENTAL DISABILITIES.--The agency is  
33 authorized to seek federal approval through a Medicaid waiver or  
34 a state plan amendment for the provision of occupational therapy,  
35 speech therapy, physical therapy, behavior analysis, and behavior  
36 assistant services to individuals who are 5 years of age and  
37 under and have a diagnosed developmental disability as defined in  
38 s. 393.063 or autism spectrum disorder as defined in s. 627.6686.  
39 Coverage for such services shall be limited to \$36,000 annually  
40 and may not exceed \$108,000 in total lifetime benefits. The  
41 agency shall submit an annual report beginning on January 1,  
42 2009, to the President of the Senate, the Speaker of the House of  
43 Representatives, and the relevant committees of the Senate and  
44 the House of Representatives regarding progress on obtaining  
45 federal approval and recommendations for the implementation of  
46 these home and community-based services. The agency may not  
47 implement this subsection without prior legislative approval.

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48 Section 2. Section 624.916, Florida Statutes, is created to  
49 read:

50 624.916 Developmental disabilities compact.--

51 (1) This section may be cited as the "Window of Opportunity  
52 Act."

53 (2) The Office of Insurance Regulation shall convene a  
54 workgroup by August 31, 2008, for the purpose of negotiating a  
55 compact that includes a binding agreement among the participants  
56 relating to insurance and access to services for persons with  
57 developmental disabilities as defined in s. 393.063, with the  
58 addition of autism spectrum disorder, as defined in s. 409.811.  
59 The workgroup shall consist of the following:

60 (a) Representatives of all health insurers licensed under  
61 this chapter.

62 (b) Representatives of all health maintenance organizations  
63 licensed under part I of chapter 641.

64 (c) Representatives of employers with self-insured health  
65 benefit plans.

66 (d) Two designees of the Governor, one of whom must be a  
67 consumer advocate.

68 (e) A designee of the President of the Senate.

69 (f) A designee of the Speaker of the House of  
70 Representatives.

71 (3) The Office of Insurance Regulation shall convene a  
72 consumer advisory workgroup for the purpose of providing a forum  
73 for comment on the compact negotiated in subsection (2). The  
74 office shall convene the workgroup prior to finalization of the  
75 compact.

76 (4) The agreement shall include the following components:

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77        (a) A requirement that each signatory to the agreement  
78 increase coverage for behavior analysis and behavior assistant  
79 services as defined in s. 409.815(2)(r) and speech therapy,  
80 physical therapy, and occupational therapy when medically  
81 necessary due to the presence of a developmental disability as  
82 defined in s. 393.063 or autism spectrum disorder, as defined in  
83 s. 409.811.

84        (b) Procedures for clear and specific notice to  
85 policyholders identifying the amount, scope, and conditions under  
86 which coverage is provided for behavior analysis and behavior  
87 assistant services as defined in s. 409.815(2)(r) and speech  
88 therapy, physical therapy, and occupational therapy when  
89 medically necessary due to the presence of a developmental  
90 disability as defined in s. 393.063 or autism spectrum disorder,  
91 as defined in s. 409.811.

92        (c) Penalties for documented cases of denial of claims for  
93 medically necessary services due to the presence of a  
94 developmental disability as defined in s. 393.063 or autism  
95 spectrum disorder, as defined in s. 409.811.

96        (d) Proposals for new product lines that may be offered in  
97 conjunction with traditional health insurance and provide a more  
98 appropriate means of spreading risk, financing costs, and  
99 accessing favorable prices.

100        (5) Upon completion of the negotiations for the compact,  
101 the office shall report the results to the Governor, the  
102 President of the Senate, and the Speaker of the House of  
103 Representatives.

104        (6) Beginning February 15, 2009, and continuing annually  
105 thereafter, the Office of Insurance Regulation shall provide a  
106 report to the Governor, the President of the Senate, and the



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107 Speaker of the House of Representatives regarding the  
108 implementation of the agreement negotiated under this section.

109 The report shall include:

110 (a) The signatories to the agreement.

111 (b) An analysis of the coverage provided under the  
112 agreement in comparison to the coverage required under ss.  
113 627.6686 and 641.31098.

114 (c) An analysis of the compliance with the agreement by the  
115 signatories, including documented cases of claims denied in  
116 violation of the agreement.

117 (7) The Office of Insurance Regulation shall continue to  
118 monitor participation, compliance, and effectiveness of the  
119 agreement and report its findings at least annually.

120 Section 3. Section 627.6686, Florida Statutes, is created  
121 to read:

122 627.6686 Coverage for individuals with autism spectrum  
123 disorder required; exception.--

124 (1) This section and section 641.31098, may be cited as the  
125 "Steven A. Geller Autism Coverage Act."

126 (2) As used in this section, the term:

127 (a) "Applied behavior analysis" means the design,  
128 implementation, and evaluation of environmental modifications,  
129 using behavioral stimuli and consequences, to produce socially  
130 significant improvement in human behavior, including, but not  
131 limited to, the use of direct observation, measurement, and  
132 functional analysis of the relations between environment and  
133 behavior.

134 (b) "Autism spectrum disorder" means any of the following  
135 disorders as defined in the most recent edition of the Diagnostic



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136 and Statistical Manual of Mental Disorders of the American  
137 Psychiatric Association:

- 138 1. Autistic disorder.  
139 2. Asperger's syndrome.  
140 3. Pervasive developmental disorder not otherwise  
141 specified.

142 (c) "Eligible individual" means an individual under 18  
143 years of age or an individual 18 years of age or older who is in  
144 high school who has been diagnosed as having a developmental  
145 disability at 8 years of age or younger.

146 (d) "Health insurance plan" means a group health insurance  
147 policy or group health benefit plan offered by an insurer which  
148 includes the state group insurance program provided under s.  
149 110.123. The term does not include any health insurance plan  
150 offered in the individual market, any health insurance plan that  
151 is individually underwritten, or any health insurance plan  
152 provided to a small employer.

153 (e) "Insurer" means an insurer providing health insurance  
154 coverage, which is licensed to engage in the business of  
155 insurance in this state and is subject to insurance regulation.

156 (3) A health insurance plan issued or renewed on or after  
157 April 1, 2009, shall provide coverage to an eligible individual  
158 for:

159 (a) Well-baby and well-child screening for diagnosing the  
160 presence of autism spectrum disorder.

161 (b) Treatment of autims spectrum disorder through speech  
162 therapy, occupational therapy, physical therapy, and applied  
163 behavior analysis. Applied behavior analysis services shall be  
164 provided by an individual certified pursuant to s. 393.17 or an  
165 individual licensed under chapter 490 or chapter 491.

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166       (4) The coverage required pursuant to subsection (3) is  
167 subject to the following requirements:

168       (a) Coverage shall be limited to treatment that is  
169 prescribed by the insured's treating physician in accordance with  
170 a treatment plan.

171       (b) Coverage for the services described in subsection (3)  
172 shall be limited to \$36,000 annually and may not exceed \$200,000  
173 in total lifetime benefits.

174       (c) Coverage may not be denied on the basis that provided  
175 services are habilitative in nature.

176       (d) Coverage may be subject to other general exclusions and  
177 limitations of the insurer's policy or plan, including, but not  
178 limited to, coordination of benefits, participating provider  
179 requirements, restrictions on services provided by family or  
180 household members, and utilization review of health care  
181 services, including the review of medical necessity, case  
182 management, and other managed care provisions.

183       (5) The coverage required pursuant to subsection (3) may  
184 not be subject to dollar limits, deductibles, or coinsurance  
185 provisions that are less favorable to an insured than the dollar  
186 limits, deductibles, or coinsurance provisions that apply to  
187 physical illnesses that are generally covered under the health  
188 insurance plan, except as otherwise provided in subsection (4).

189       (6) An insurer may not deny or refuse to issue coverage for  
190 medically necessary services, refuse to contract with, or refuse  
191 to renew or reissue or otherwise terminate or restrict coverage  
192 for an individual because the individual is diagnosed as having a  
193 developmental disability.

194       (7) The treatment plan required pursuant to subsection (4)  
195 shall include all elements necessary for the health insurance



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196 plan to appropriately pay claims. These elements include, but are  
197 not limited to, a diagnosis, the proposed treatment by type, the  
198 frequency and duration of treatment, the anticipated outcomes  
199 stated as goals, the frequency with which the treatment plan will  
200 be updated, and the signature of the treating physician.

201 (7) Beginning January 1, 2011, the maximum benefit under  
202 paragraph (4) (b) shall be adjusted annually on January 1 of each  
203 calendar year to reflect any change from the previous year in the  
204 medical component of the then current Consumer Price Index for  
205 all urban consumers, published by the Bureau of Labor Statistics  
206 of the United States Department of Labor.

207 (7) This section may not be construed as limiting benefits  
208 and coverage otherwise available to an insured under a health  
209 insurance plan.

210 (8) The Office of Insurance Regulation may not enforce this  
211 section against an insurer that is a signatory no later than  
212 April 1, 2009, to the developmental disabilities compact  
213 established under s. 624.916. The Office of Insurance Regulation  
214 shall enforce this section against an insurer that is a signatory  
215 to the compact established under s. 624.916 if the insurer has  
216 not complied with the terms of the compact for all health  
217 insurance plans by April 1, 2010.

218 Section 4. Section 641.31098, Florida Statutes, is created  
219 to read:

220 641.31098 Coverage for individuals with developmental  
221 disabilities.--

222 (1) This section and section 627.6686, may be cited as the  
223 "Steven A. Geller Autism Coverage Act."

224 (2) As used in this section, the term:





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225       (a) "Applied behavior analysis" means the design,  
226 implementation, and evaluation of environmental modifications,  
227 using behavioral stimuli and consequences, to produce socially  
228 significant improvement in human behavior, including, but not  
229 limited to, the use of direct observation, measurement, and  
230 functional analysis of the relations between environment and  
231 behavior.

232       (b) "Autism spectrum disorder" means any of the following  
233 disorders as defined in the most recent edition of the Diagnostic  
234 and Statistical Manual of Mental Disorders of the American  
235 Psychiatric Association:

- 236           1. Autistic disorder.  
237           2. Asperger's syndrome.  
238           3. Pervasive developmental disorder not otherwise  
239 specified.

240       (b) "Eligible individual" means an individual under 18  
241 years of age or an individual 18 years of age or older who is in  
242 high school who has been diagnosed as having a developmental  
243 disability at 8 years of age or younger.

244       (c) "Health maintenance contract" means a group health  
245 maintenance contract offered by a health maintenance  
246 organization. This term does not include a health maintenance  
247 contract offered in the individual market, a health maintenance  
248 contract that is individually underwritten, or a health  
249 maintenance contract provided to a small employer.

250       (3) A health maintenance contract issued or renewed on or  
251 after April 1, 2009, shall provide coverage to an eligible  
252 individual for:

253           (a) Well-baby and well-child screening for diagnosing the  
254 presence of autism spectrum disorder.



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255 (b) Treatment of autism spectrum disorder through speech  
256 therapy, occupational therapy, physical therapy, and applied  
257 behavior analysis services. Applied behavior analysis services  
258 shall be provided by an individual certified pursuant to s.  
259 393.17 or an individual licensed under chapter 490 or chapter  
260 491.

261 (4) The coverage required pursuant to subsection (3) is  
262 subject to the following requirements:

263 (a) Coverage shall be limited to treatment that is  
264 prescribed by the subscriber's treating physician in accordance  
265 with a treatment plan.

266 (b) Coverage for the services described in subsection (3)  
267 shall be limited to \$36,000 annually and may not exceed \$200,000  
268 in total benefits.

269 (c) Coverage may not be denied on the basis that provided  
270 services are habilitative in nature.

271 (d) Coverage may be subject to general exclusions and  
272 limitations of the subscriber's contract, including, but not  
273 limited to, coordination of benefits, participating provider  
274 requirements, and utilization review of health care services,  
275 including the review of medical necessity, case management, and  
276 other managed care provisions.

277 (5) The coverage required pursuant to subsection (3) may  
278 not be subject to dollar limits, deductibles, or coinsurance  
279 provisions that are less favorable to a subscriber than the  
280 dollar limits, deductibles, or coinsurance provisions that apply  
281 to physical illnesses that are generally covered under the  
282 subscriber's contract, except as otherwise provided in subsection  
283 (3).



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284       (6) A health maintenance organization may not deny or  
 285 refuse to issue coverage for medically necessary services, refuse  
 286 to contract with, or refuse to renew or reissue or otherwise  
 287 terminate or restrict coverage for an individual solely because  
 288 the individual is diagnosed as having a developmental disability.

289       (7) The treatment plan required pursuant to subsection (4)  
 290 shall include, but is not limited to, a diagnosis, the proposed  
 291 treatment by type, the frequency and duration of treatment, the  
 292 anticipated outcomes stated as goals, the frequency with which  
 293 the treatment plan will be updated, and the signature of the  
 294 treating physician.

295       (8) Beginning January 1, 2011, the maximum benefit under  
 296 paragraph (4) (b) shall be adjusted annually on January 1 of each  
 297 calendar year to reflect any change from the previous year in the  
 298 medical component of the then current Consumer Price Index for  
 299 all urban consumers, published by the Bureau of Labor Statistics  
 300 of the United States Department of Labor.

301       (9) The Office of Insurance Regulation may not enforce this  
 302 section against a health maintenance organization that is a  
 303 signatory no later than April 1, 2009, to the developmental  
 304 disabilities compact established under s. 624.916. The Office of  
 305 Insurance Regulation shall enforce this section against a health  
 306 maintenance organization that is a signatory to the compact  
 307 established under s. 624.916 if the health maintenance  
 308 organization has not complied with the terms of the compact for  
 309 all health maintenance contracts by April 1, 2010.

Section 5. This act shall take effect July 1, 2008.

313 ===== T I T L E   A M E N D M E N T =====

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314 And the title is amended as follows:

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316 Delete everything before the enacting clause

317 and insert:

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A bill to be entitled

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An act relating to children with disabilities;

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amending s. 409.906, F.S.; creating the "Window of

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Opportunity Act"; authorizing the Agency for Health Care

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Administration to seek federal approval through a state

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plan amendment to provide home and community-based

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services for autism spectrum disorder and other

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development disabilities; specifying eligibility criteria;

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specifying limitations on provision of benefits; requiring

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reports to the Legislature; requiring legislative approval

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for implementation of certain provisions; creating s.

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624.916, F.S.; creating the Steven A. Geller Autism

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Coverage Act"; directing the Office of Insurance

331

Regulation to establish a workgroup to develop and execute

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a compact relating to coverage for insured persons with

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development disabilities; providing for membership of the

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workgroup; requiring the workgroup to convene within a

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specified period of time; directing the office to

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establish a consumer advisory workgroup and providing

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purpose thereof; requiring the compact to contain

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specified components; requiring reports to the Governor

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and the Legislature; creating s. 627.6686, F.S.; providing

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health insurance coverage for individuals with autisms

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spectrum disorder; providing definitions; providing

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coverage for certain screening to diagnose and treat

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autisms spectrum disorder; providing limitations on

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344 coverage; providing for eligibility standards for benefits  
345 and coverage; prohibiting insurers from denying coverage  
346 under certain circumstances; specifying required elements  
347 of a treatment plan; providing, beginning January 1, 2011,  
348 that the maximum benefit shall be adjusted annually;  
349 clarifying that the section may not be construed as  
350 limiting benefits and coverage otherwise available to an  
351 insured under a health insurance plan; prohibiting the  
352 Office of Insurance Regulation from enforcing certain  
353 provisions against insurers that are signatories to the  
354 developmental disabilities compact by a specified date;  
355 creating s. 641.31098, F.S.; providing coverage under a  
356 health maintenance contract for individuals with autism  
357 spectrum disorder; providing definitions; providing  
358 coverage for certain screening to diagnose and treat  
359 autism spectrum disorder; providing limitations on  
360 coverage; providing for eligibility standards for benefits  
361 and coverage; prohibiting health maintenance organizations  
362 from denying coverage under certain circumstances;  
363 specifying required elements of a treatment plan;  
364 providing, beginning January 1, 2011, that the maximum  
365 benefit shall be adjusted annually; prohibiting the Office  
366 of Insurance Regulation from enforcing certain provisions  
367 against health maintenance organizations that are  
368 signatories to the developmental disabilities compact by a  
369 specified date; providing an effective date.