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CHAMBER ACTION

Senate

House

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Floor: AD/RM
5/2/2008 11:50 AM

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Floor: AA
5/2/2008 2:59 PM

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

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

5 Delete line(s) 5-1537

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, autism spectrum disorder as defined in s. 627.6686,
39 or Down syndrome, a genetic disorder caused by the presence of
40 extra chromosomal material on chromosome 21. Causes of the
41 syndrome may include Trisomy 21, Mosaicism, Robertsonian
42 Translocation, and other duplications of a portion of chromosome
43 21. Coverage for such services shall be limited to \$36,000
44 annually and may not exceed \$108,000 in total lifetime benefits.
45 The agency shall submit an annual report beginning on January 1,
46 2009, to the President of the Senate, the Speaker of the House of
47 Representatives, and the relevant committees of the Senate and



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48 the House of Representatives regarding progress on obtaining
49 federal approval and recommendations for the implementation of
50 these home and community-based services. The agency may not
51 implement this subsection without prior legislative approval.

52 Section 2. Section 624.916, Florida Statutes, is created to
53 read:

54 624.916 Developmental disabilities compact.--

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

57 (2) The Office of Insurance Regulation shall convene a
58 workgroup by August 31, 2008, for the purpose of negotiating a
59 compact that includes a binding agreement among the participants
60 relating to insurance and access to services for persons with
61 developmental disabilities. The workgroup shall consist of the
62 following:

63 (a) Representatives of all health insurers licensed under
64 this chapter.

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

67 (c) Representatives of employers with self-insured health
68 benefit plans.

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

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

72 (f) A designee of the Speaker of the House of
73 Representatives.

74 (3) The Office of Insurance Regulation shall convene a
75 consumer advisory workgroup for the purpose of providing a forum
76 for comment on the compact negotiated in subsection (2). The

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77 office shall convene the workgroup prior to finalization of the
78 compact.

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

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

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

92 (c) Penalties for documented cases of denial of claims for
93 medically necessary services due to the presence of a
94 developmental disability.

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

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

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



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107 implementation of the agreement negotiated under this section.

108 The report shall include:

109 (a) The signatories to the agreement.

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

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

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

119 (8) As used in this section, the term "developmental
120 disabilities" includes:

121 (a) The term as defined in s. 393.063;

122 (b) Down syndrome, a genetic disorder caused by the
123 presence of extra chromosomal material on chromosome 21. Causes
124 of the syndrome may include Trisomy 21, Mosaicism, Robertsonian
125 Translocation, and other duplications of a portion of chromosome
126 21; and

127 (c) Autism spectrum disorder, as defined in s. 627.6686.
128 Section 3. Section 627.6686, Florida Statutes, is created
129 to read:

130 627.6686 Coverage for individuals with autism spectrum
131 disorder required; exception.--

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

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

135 (a) "Applied behavior analysis" means the design,
136 implementation, and evaluation of environmental modifications,



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137 using behavioral stimuli and consequences, to produce socially
138 significant improvement in human behavior, including, but not
139 limited to, the use of direct observation, measurement, and
140 functional analysis of the relations between environment and
141 behavior.

142 (b) "Autism spectrum disorder" means any of the following
143 disorders as defined in the most recent edition of the Diagnostic
144 and Statistical Manual of Mental Disorders of the American
145 Psychiatric Association:

- 146 1. Autistic disorder.
147 2. Asperger's syndrome.
148 3. Pervasive developmental disorder not otherwise
149 specified.

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

154 (d) "Health insurance plan" means a group health insurance
155 policy or group health benefit plan offered by an insurer which
156 includes the state group insurance program provided under s.
157 110.123. The term does not include any health insurance plan
158 offered in the individual market, any health insurance plan that
159 is individually underwritten, or any health insurance plan
160 provided to a small employer.

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

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



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

169 (b) Treatment of autims spectrum disorder through speech
170 therapy, occupational therapy, physical therapy, and applied
171 behavior analysis. Applied behavior analysis services shall be
172 provided by an individual certified pursuant to s. 393.17 or an
173 individual licensed under chapter 490 or chapter 491.

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

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

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

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

184 (d) Coverage may be subject to other general exclusions and
185 limitations of the insurer's policy or plan, including, but not
186 limited to, coordination of benefits, participating provider
187 requirements, restrictions on services provided by family or
188 household members, and utilization review of health care
189 services, including the review of medical necessity, case
190 management, and other managed care provisions.

191 (5) The coverage required pursuant to subsection (3) may
192 not be subject to dollar limits, deductibles, or coinsurance
193 provisions that are less favorable to an insured than the dollar
194 limits, deductibles, or coinsurance provisions that apply to
195 physical illnesses that are generally covered under the health
196 insurance plan, except as otherwise provided in subsection (4).

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197 (6) An insurer may not deny or refuse to issue coverage for
198 medically necessary services, refuse to contract with, or refuse
199 to renew or reissue or otherwise terminate or restrict coverage
200 for an individual because the individual is diagnosed as having a
201 developmental disability.

202 (7) The treatment plan required pursuant to subsection (4)
203 shall include all elements necessary for the health insurance
204 plan to appropriately pay claims. These elements include, but are
205 not limited to, a diagnosis, the proposed treatment by type, the
206 frequency and duration of treatment, the anticipated outcomes
207 stated as goals, the frequency with which the treatment plan will
208 be updated, and the signature of the treating physician.

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

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

218 (8) The Office of Insurance Regulation may not enforce this
219 section against an insurer that is a signatory no later than
220 April 1, 2009, to the developmental disabilities compact
221 established under s. 624.916. The Office of Insurance Regulation
222 shall enforce this section against an insurer that is a signatory
223 to the compact established under s. 624.916 if the insurer has
224 not complied with the terms of the compact for all health
225 insurance plans by April 1, 2010.



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226 Section 4. Section 641.31098, Florida Statutes, is created
227 to read:

228 641.31098 Coverage for individuals with developmental
229 disabilities.--

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

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

233 (a) "Applied behavior analysis" means the design,
234 implementation, and evaluation of environmental modifications,
235 using behavioral stimuli and consequences, to produce socially
236 significant improvement in human behavior, including, but not
237 limited to, the use of direct observation, measurement, and
238 functional analysis of the relations between environment and
239 behavior.

240 (b) "Autism spectrum disorder" means any of the following
241 disorders as defined in the most recent edition of the Diagnostic
242 and Statistical Manual of Mental Disorders of the American
243 Psychiatric Association:

244 1. Autistic disorder.

245 2. Asperger's syndrome.

246 3. Pervasive developmental disorder not otherwise
247 specified.

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

252 (c) "Health maintenance contract" means a group health
253 maintenance contract offered by a health maintenance
254 organization. This term does not include a health maintenance
255 contract offered in the individual market, a health maintenance



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256 contract that is individually underwritten, or a health
257 maintenance contract provided to a small employer.

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

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

263 (b) Treatment of autism spectrum disorder through speech
264 therapy, occupational therapy, physical therapy, and applied
265 behavior analysis services. Applied behavior analysis services
266 shall be provided by an individual certified pursuant to s.
267 393.17 or an individual licensed under chapter 490 or chapter
268 491.

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

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

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

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

279 (d) Coverage may be subject to general exclusions and
280 limitations of the subscriber's contract, including, but not
281 limited to, coordination of benefits, participating provider
282 requirements, and utilization review of health care services,
283 including the review of medical necessity, case management, and
284 other managed care provisions.



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285 (5) The coverage required pursuant to subsection (3) may
286 not be subject to dollar limits, deductibles, or coinsurance
287 provisions that are less favorable to a subscriber than the
288 dollar limits, deductibles, or coinsurance provisions that apply
289 to physical illnesses that are generally covered under the
290 subscriber's contract, except as otherwise provided in subsection
291 (3).

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

297 (7) The treatment plan required pursuant to subsection (4)
298 shall include, but is not limited to, a diagnosis, the proposed
299 treatment by type, the frequency and duration of treatment, the
300 anticipated outcomes stated as goals, the frequency with which
301 the treatment plan will be updated, and the signature of the
302 treating physician.

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

309 (9) The Office of Insurance Regulation may not enforce this
310 section against a health maintenance organization that is a
311 signatory no later than April 1, 2009, to the developmental
312 disabilities compact established under s. 624.916. The Office of
313 Insurance Regulation shall enforce this section against a health
314 maintenance organization that is a signatory to the compact



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315 established under s. 624.916 if the health maintenance
316 organization has not complied with the terms of the compact for
317 all health maintenance contracts by April 1, 2010.

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

319
320 ===== T I T L E A M E N D M E N T =====

321 And the title is amended as follows:

322 Delete line(s) 1545-1719

323 and insert:

324 An act relating to children with disabilities;
325 amending s. 409.906, F.S.; creating the "Window of
326 Opportunity Act"; authorizing the Agency for Health Care
327 Administration to seek federal approval through a state
328 plan amendment to provide home and community-based
329 services for autism spectrum disorder and other
330 development disabilities; specifying eligibility criteria;
331 specifying limitations on provision of benefits; requiring
332 reports to the Legislature; requiring legislative approval
333 for implementation of certain provisions; creating s.
334 624.916, F.S.; creating the Steven A. Geller Autism
335 Coverage Act"; directing the Office of Insurance
336 Regulation to establish a workgroup to develop and execute
337 a compact relating to coverage for insured persons with
338 development disabilities; providing for membership of the
339 workgroup; requiring the workgroup to convene within a
340 specified period of time; directing the office to
341 establish a consumer advisory workgroup and providing
342 purpose thereof; requiring the compact to contain
343 specified components; requiring reports to the Governor
344 and the Legislature; creating s. 627.6686, F.S.; providing

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