

Autism and Health Insurance Benefits

March 2014



Introduction

When a child with autism is participating in various therapies, a parent often wonders if the therapies might be covered under their health plan. The answer depends on the type of plan and whether it is fully-insured, self-funded or neither.

The following provides a basic overview of fully-insured and self-funded plans and can help you understand what to expect from your plan.

Fully-Insured Plans

To find out if your plan is fully-insured—look at your ID card. ID cards issued in New Jersey must state if the coverage is fully-insured or not.

Fully-insured plans are those in which an individual or an employer contracts with an insurance carrier to cover the cost of health care. Under these plans, the individual or the employer pays a premium to the insurance carrier, who pays for healthcare claims minus any coinsurance, copays or deductibles that apply to the plan. Because these plans are subject to the laws of the state in which they are offered, they must follow state-issued mandates.

There are two mandates in New Jersey that enable people who are covered under fully-insured individual or group health plans purchased in New Jersey to access coverage for the treatment of autism.

The Biologically-Based Mental Illness (BBMI) mandate was passed in 1999 to ensure that fully-insured NJ plans would offer coverage of mental health treatment of autism and other conditions. Specifically, coverage for mental health treatment has to be at least equal to medical or surgical benefits offered by the plan. This means that the people could not be required to pay more for their mental health services or be restricted to a limited number of mental health visits per year.

An additional law, Health Benefits Coverage for Autism and Other Developmental Disabilities, passed in 2009, expanded

the insurance benefits available to treat autism as well as other developmental disabilities. The “autism insurance mandate” requires fully-insured NJ plans to cover speech, occupational and physical therapy for people with autism and other developmental disabilities (without denying coverage based on the fact that the services are habilitative in nature) and to cover Applied Behavior Analysis (ABA) services for people under 21 with an autism diagnosis.

Fully-insured plans are also subject to federal law. The Affordable Care Act (ACA) applies to people covered by individual and fully-insured group health plans. These plans are required to provide what are called “essential health benefits” (EHB) which include mental health services and habilitative services. Rather than defining specific services under the EHB categories, the law directs each state to define each essential health benefit by identifying a “benchmark plan” that plans in the New Jersey marketplace must follow. New Jersey’s benchmark plan includes state mandates for coverage, including health benefits coverage for autism. Because the law also prohibits yearly or lifetime dollar amount limits on essential health benefits, a provision in the 2009 mandate allowing a cap of \$36,000 per year for ABA no longer applies.

Self-Funded Plans

To find out if your plan is self-funded – look at your ID card. ID cards issued in New Jersey must state if the coverage is self-funded or not. You may see a phrase such as “administered by” on the card to indicate that the plan is self-funded.

Self-funded insurance plans are typically provided by large employers or labor unions, and sometimes by smaller employers. They differ from fully-insured plans in that healthcare costs are paid out of a fund that an employer establishes and employees pay into. Employers may choose to contract with an insurance company to perform administrative functions such as processing and paying claims, but the insurance company is not insuring the

Autism and Health Insurance Benefits

individuals covered by the plan. Self-funded plans are regulated under federal laws such as the Employee Retirement Income Security Act of 1974 (ERISA) which specifically excludes the plans from state laws. Therefore, self-funded plans do not have to adhere to mandates such as New Jersey's autism law.

Non-grandfathered self-funded plans (those that were created after the passage of the ACA in 2010) must follow almost all of the ACA rules, such as prohibiting annual and lifetime limits and arbitrary cancellations coverage. However, there are a few ACA exceptions for all self-funded plans (grandfathered or not). A major exception is essential health benefits. Because the ACA directs each state to establish its own criteria for essential health benefits, self-funded plans do not have to adopt the criteria. For that reason, even if a self-funded plan offers mental health benefits (considered an EHB) it does not have to adopt New Jersey's criteria, which includes Applied Behavior Analysis (ABA) for autism. However, self-funded plans are still prohibited from setting dollar amount caps on benefits that are considered EHBs.

Because employers offering self-funded plans elect the type of coverage they offer to employees, they can elect to include a benefit for ABA and other services. If your self-funded plan specifically excludes benefits for autism, you can speak to your employer about adding it to your plan. Autism New Jersey can advise you on how to advocate for inclusion of autism benefits.

If you have job-based insurance, you may still be able to purchase coverage in the individual insurance marketplace. However, people with plans offered through their employer may not qualify for lower costs based on their income if their employer plan is considered affordable and meets the minimum care standard defined under the ACA. If you decide to switch, you will first need to determine whether you have the option to waive your employer's healthcare coverage. In addition, you will only be able to buy coverage during a specific yearly enrollment period.

New Jersey FamilyCare

New Jersey FamilyCare is a state- and federally-funded public health insurance program administered by The Division of Medical Assistance and Health Services (DMAHS). Because NJ FamilyCare is not a fully-insured plan, the coverage is not governed by New Jersey insurance mandates. As of January 2014, New Jersey FamilyCare includes the Children's Health Insurance Program (CHIP), Medicaid and Medicaid expansion. For more information visit www.njfamilycare.org and www.medicaid.gov/Medicaid-CHIP-Program-Information/By-State/new-jersey.html Autism New Jersey will keep you informed about any updates or changes within NJ FamilyCare that may affect coverage of autism-related treatment.

Your Healthcare Rights

All insured individuals have certain rights under federal or state law, or both. These rights include adequate access to medically necessary services, accurate information about what your plan covers and your cost-sharing responsibilities, guidelines for using in-network and out-of-network providers, timely processing of authorizations and claims, and the right to information about the appeals process for adverse decisions.

For Additional Help or Information

Contact Autism New Jersey's Helpline, 800.4.AUTISM

Autism New Jersey is actively involved in advocacy to help families who are eligible for insurance coverage of autism benefits more easily access coverage. If you have questions or concerns about insurance, contact Autism New Jersey at 800.4.AUTISM, send an email to information@autismnj.org, or visit the insurance section of our website: www.autismnj.org/resources/healthcare_insurance. From there, you can download our free booklet *Maximizing Coverage Under the New Jersey Autism & Other Developmental Disabilities Insurance Mandate*, which is a detailed overview of New Jersey's insurance mandate.

Contact the New Jersey Department of Banking and Insurance (DOBI)

If you are having difficulty resolving issues with your insurance, contact DOBI's Consumer Inquiry and Response Center (CIRC). You can ask questions or open a formal complaint by calling 609.292.7272 or DOBI's Consumer Hotline, 800.446.7467. DOBI provides additional instructions and an online complaint form on their website, www.state.nj.us/dobi/consumer.htm

For questions about self-funded plans, contact the U.S. Department of Labor Employee Benefits Security Administration at 866.444.3272 or visit www.dol.gov/ebsa

For more information about the Affordable Care Act and to evaluate your coverage options through the health insurance marketplace, visit www.healthcare.gov