

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Limits on Treatment of
Autism Spectrum Disorders**

Order No. 14-017-M

**Issued and entered
this 18th day of April 2014
by Annette E. Flood
Director**

**Order Regarding Limits on
Treatment for Autism Spectrum Disorders**

Under Michigan law and Department of Insurance and Financial Services (DIFS) Order No. 13-003-M, benefits for the “treatment of autism spectrum disorders,” as that term is defined in MCL 500.3406s(7)(k) and MCL 550.1416e(7)(k), are all considered to be essential health benefits (EHBs). The Patient Protection and Affordable Care Act (ACA) prohibits the imposition of annual dollar limits on any EHB. See 42 U.S.C. § 300gg-11. However, Michigan law would permit issuers to impose annual dollar limits on treatments for autism spectrum disorders. See MCL 500.3406s(1)(d), 550.1416e(1)(d). Therefore, a direct conflict exists between Michigan law and the ACA with respect to an issuer’s ability to impose annual dollar limits on treatments for autism spectrum disorders. As a result, MCL 500.3406s(1)(d) and 550.1416e(1)(d) are preempted by the ACA, and issuers may not impose annual dollar limits on any of the mandated benefits.

In recognition of the fact that the Michigan law has been preempted in this regard, DIFS Order No. 13-003-M, issued January 7, 2013, required insurance issuers to convert the annual dollar limits allowed under those sections into non-quantitative limits. However, MCL 500.3406s(1)(b) prohibits imposing visit limits on treatments for autism spectrum disorders. Therefore, the annual dollar limits could not be converted to visit limits because doing so would violate Michigan law.

For plan year 2014, certain issuers converted the annual dollar limits into non-quantitative limits pursuant to Order No. 13-003-M. DIFS allowed the annual dollar limits to be converted to non-quantitative limits other than visit limits, such as hourly or daily limits.

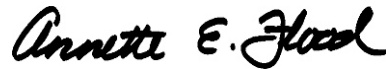
Since the implementation of Order No. 13-003-M, it has become apparent that hourly or daily limits have the same practical effect as visit limits on limiting treatment of autism spectrum disorders. As a result, the Director has concluded that hourly and daily limits are indistinguishable from visit limits and are thus prohibited under MCL 500.3406s(1)(b). Issuers

should note that they may continue to utilize the medical management techniques enumerated in MCL 500.3406s(2) and MCL 550.1416e(2).

THEREFORE, IT IS ORDERED that issuers may not convert annual dollar limits to non-quantitative limits such as visit limits, hourly limits or daily limits on any statutorily mandated treatment for autism spectrum disorders. This applies to all non-grandfathered individual, small group, and large group policies, including transitional policies as described in Order No. 13-055-M and extended transitional policies as described in Order No. 14-015-M.

FURTHER IT IS ORDERED that the portion of Order No. 13-003-M requiring insurance issuers to convert annual dollar limits to non-quantitative limits for any small group or individual plan offered on or after January 1, 2014, is superseded. The rest of Order No. 13-003-M remains in force.

This Order will be effective for all non-grandfathered individual, small group, and large group plans with effective dates beginning on or after January 1, 2015.



Annette E. Flood
Director