

## **Addendum to the Economic Impact Assessment**

**Date: January 10, 2014**

**REG-2013-00006**

**Title: Mental Health Parity**

In response to the Department of Finance request for further information, three areas are covered by this Addendum to the Economic Impact Assessment (EIA) filed with DOF in October of 2013 (see subject headings in italics below).

### *1. Impact on Investment in the State*

Since this regulation deals only with who pays for early intensive behavioral intervention (EIBI) therapy or Applied Behavior Analysis (ABA) therapy for autistic children, it will probably not have any effect on capital investments, equipment, structures or real estate investments made in California (Government Code section 11346.3(c)(1)(D)). However, the regulation is intended to shift the cost burden of providing therapy away from schools and other government payers and may improve their ability to make investments in the future. Besides schools and regional centers, there are already numerous private sector providers of this therapy.

### *2. Effect on Incentives for Innovation in Products, Materials, or Processes*

The assurance of coverage or enhancement of coverage made possible by this regulation may incentivize care and rehabilitation of autistic children. In so doing, it may foster further innovation in the provision of care for example by improving the effectiveness of the therapy. This could have a profound impact on the ultimate workforce readiness of autistic children. As more children emerge from three years of therapy as more functional and education ready, more companies may hire employees with this type of disability.

As discussed on page 13 of the EIA, some companies already see advantages in hiring people with autism. If programs like SAP's remain successful, this regulation may help to create a long-term incentive for companies to diversify their workforce (Government Code section 11346.3(c)(1)(E)).

### *3. Alternatives as discussed in the Notice of Hearing and from the Initial Statement of Reasons*

The Commissioner has considered and rejected the following reasonable alternatives to the proposed regulations:

#### ***Alternative #1. Retain the status quo.***

The Department has considered not adopting the proposed regulations. Some suggest leaving things as they are would be less burdensome to insurers than the proposed regulations. However, the only method that would remain open to CDI would be to continue to wait for incoming

consumer complaints and bring enforcement actions against insurers to comply with the requirements of the MHPA.

#### Reasons for rejecting Alternative #1

Of the three alternatives considered, this alternative would be the least effective in fulfilling the goal of providing medically necessary treatment for individuals with ASD. CDI enforcement staff would spend more time processing complaints, and the complaint resolution process would increase the delay in actual treatment for ASD. This piecemeal approach would do nothing to secure the benefits identified in the Notice of Proposed Action: The regulations are proposed in order to bring an end to improper denials of medically necessary treatment for autism. Alternative #1 would do nothing more to address the identified problem than was the case before the regulations went into effect. Furthermore, CDI has been petitioned by the Association of California Healthcare and Life Insurance Companies (ACHLIC) to promulgate regulations regarding the requirements for coverage relating to the treatment of ASD.

***Alternative #2. Include all severe mental illnesses enumerated in the MHPA as part of the scope of this regulation.***

The Department considered including all of the severe mental illnesses enumerated in the MHPA as part of the scope of this regulation.

#### Reasons for rejecting Alternative #2

There are no industry requests for regulations to address the application of the statute to those disorders. Moreover, the benefits to be derived from the proposed regulations as set forth in the Notice of Proposed Action are limited to bringing an end to improper denials of medically necessary treatment for autism only. Expanding the scope of the proposed regulations to include other parity diagnoses would do nothing to increase the regulations' effectiveness in procuring this particular benefit. Accordingly, Alternative #2 is no more cost-effective than the proposed regulations, because it would not improve the regulations' effectiveness in addressing improper denials of treatment for autism and would not reduce costs to insurers below the costs imposed by the proposed regulations. Rather, expanding the scope of the regulations to include additional diagnoses would almost certainly result in increased costs to insurers.

Again, the problem sought to be addressed by the proposed regulations is expressly limited to pervasive developmental disorder or autism, specifically, improper denials of behavioral, speech and occupational therapy. The Department is unaware that denials for these particular medical services have been encountered with respect to other parity diagnoses.