



AFL-CIO

May 3, 2013

The Honorable Edmund G. Brown, Jr.
Governor
State of California
State Capitol, First Floor
Sacramento, California 95814



Re: Autistic Children Enrolled in CalPERS Health Maintenance Organization (HMO) Plans

Dear Governor Brown:

We are writing to express our deep concern regarding the position the Department of Managed Health Care (DMHC) has taken with regard to health coverage for autistic children receiving CalPERS funded health care from Blue Shield and Kaiser HMOs. We are also appealing to you to direct the DMHC to end their current policy position on this issue so that autistic children can receive the treatment they need, without any delay.

We care about this issue because the DMHC regulates HMO plans providing coverage to state, school and local government employees and their families, including members that we represent. Approximately 930,000 CalPERS enrollees are enrolled in HMO plans provided by Blue Shield and Kaiser, including approximately 3,693 autistic children.

The DMHC continues to take the position that children enrolled in CalPERS funded HMO plans may only receive coverage for an essential treatment for autism Applied Behavioral Analysis (ABA), if the ABA is administered by a *state-licensed* therapist. Under California law, however, ABA must be covered by HMOs regulated by the Department of Managed Health Care when it is administered or supervised by a therapist certified by the Behavioral Analyst Certification Board (BACB). In fact, *no state licensing even exists* for ABA therapists. In order to comply with the DMHC's troubling rule, parents of autistic children enrolled in CalPERS funded health care programs must instead seek ABA from uncertified, but state-licensed, marriage and family therapists, psychologists, psychiatrists, and speech therapists.



Recent regulatory action by the Department of Insurance, which regulates health insurers under a substantively identical version of the landmark Mental Health Parity Act as that applying to HMOs, confirms the Department of Insurance's longstanding position that under the Mental Health Parity Act *a state license is not required* in order to administer ABA. Additionally, the Department of Insurance's regulation and supporting documentation emphasizes that because the Mental Health Parity Act itself mandates that health insurers provide coverage for medically necessary ABA treatments for autism, the enactment of Senate Bill 946, *reconfirmed* that pre-existing obligation but did not establish a new mandate.

We are also concerned that the DMHC's rule is adding unnecessary burdens and expenses. For example, Blue Shield and Kaiser must use *more expensive, less available, and often less qualified* "licensed" therapists to administer ABA treatments to CalPERS enrollees. However, it is our understanding that the same companies providing coverage to Californians enrolled in *privately* funded health coverage regulated by the DMHC draw upon the much larger, less expensive, and more qualified pool of BACB-certified professionals.

This disparate treatment has a tremendous impact on the state budget and to our members. For example, a licensed psychologist charges an average hourly rate of \$150 to provide ABA services. In comparison, ABA treatments supervised by a BACB certified therapist costs approximately \$65 per hour.

Another practical impact of the DMHC's policy is that families may be unable to find a *licensed* provider to administer ABA treatments, thereby delaying, or effectively denying, autistic children access to medical care. Children who do not receive effective and timely treatment will remain substantially impaired throughout life and are more likely to require extensive and expensive publicly-funded care as adults. It is critically important that autistic children receive the care they need when they need it.

For all of these reasons, we request that you direct the DMHC to end their current policy position that autistic children enrolled in CalPERS funded HMO plans may only receive coverage for an essential treatment for autism Applied Behavioral Analysis (ABA), if the ABA is administered by a *state-licensed* therapist. Ending this position will protect autistic children from disparate treatment and will ensure that our children receive the care that they need when they need it.

Sincerely,



Dave Low, Executive Director
California School Employees Association



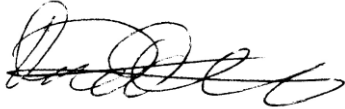
Lou Paulson, President
California Professional Firefighters



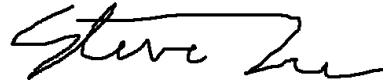
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