

**HOUSE . . . . . No. 4935**

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*The Commonwealth of Massachusetts*

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HOUSE OF REPRESENTATIVES, July 26, 2010.

The committee on Ways and Means to whom was referred the petition (accompanied by bill House, No. 3809), reports recommending that the accompanying bill (House, No. 4935) ought to pass.

For the committee,

CHARLES A. MURPHY

# The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

An Act relative to insurance coverage for autism.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the following  
2 section:-

3 Section 25. (a) As used in this section the following words shall, unless the context clearly  
4 requires otherwise, have the following meanings:-

5 “Actuary”, a person who is a member of American Academy of Actuaries and meets Academy’s  
6 professional qualification standards for rendering an actuarial opinion related to health insurance  
7 rate making,

8 “Applied behavior analysis”, the design, implementation and evaluation of environmental  
9 modifications, using behavioral stimuli and consequences, to produce socially significant  
10 improvement in human behavior, including the use of direct observation, measurement and  
11 functional analysis of the relationship between environment and behavior.

12 “Autism services provider”, a person, entity or group that provides treatment of autism spectrum  
13 disorders.

14 “Autism spectrum disorders”, any of the Pervasive Developmental Disorders as defined by the  
15 most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including  
16 Autistic Disorder, Asperger’s Disorder, and Pervasive Developmental Disorders Not Otherwise  
17 Specified.

18 “Board certified behavior analyst”, a behavior analyst credentialed by the Behavior Analyst  
19 Certification Board as a board certified behavior analyst.

20 “Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations  
21 including neuropsychological evaluations, genetic testing or other tests to diagnose whether an  
22 individual has 1 of the autism spectrum disorders.

23 “Habilitative or rehabilitative care”, professional, counseling and guidance services and  
24 treatment programs, including but not limited to, applied behavior analysis supervised by a board  
25 certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum  
26 extent practicable, the functioning of an individual.

27 “Pharmacy care”, medications prescribed by a licensed physician and health-related services  
28 deemed medically necessary to determine the need or effectiveness of the medications, to the  
29 same extent that pharmacy care is provided by the insurance policy for other medical conditions.

30 “Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state  
31 in which the psychiatrist practices.

32 “Psychological care”, direct or consultative services provided by a psychologist licensed in the  
33 state in which the psychologist practices.

34 “Therapeutic care”, services provided by licensed or certified speech therapists, occupational  
35 therapists, physical therapists or social workers.

36 “Treatment of Autism Spectrum Disorders”, includes the following care prescribed, provided or  
37 ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed  
38 physician or a licensed psychologist who determines the care to be medically necessary:  
39 habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and  
40 therapeutic care.

41 (b) The commission shall provide to an active or retired employee of the commonwealth who is  
42 insured under the group insurance commission benefits on a nondiscriminatory basis for the  
43 diagnosis and treatment of Autism Spectrum Disorder in individuals.

44 (c) A health plan provided by the commission shall be in compliance with subsection (b) if the  
45 plan does not contain any annual or lifetime dollar or unit of service limitation on coverage for  
46 the diagnosis and treatment of Autism Spectrum Disorders which is less than any annual or

47 lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment  
48 of physical conditions.

49 (d) This section shall not limit benefits that are otherwise available to an individual under a  
50 health insurance policy.

51 (e) Coverage under this section shall not be subject to any limits on the number of visits an  
52 individual may make to an autism services provider.

53 (f) This section shall not affect any obligation to provide services to an individual under an  
54 individualized family service plan, an individualized education program or an individualized  
55 service plan. Services related to autism spectrum disorder provided by school personnel pursuant  
56 to an individualized education program are not subject to reimbursement under this section.

57 (g) An insurer, corporation or health maintenance organization shall be exempt from providing  
58 coverage for habilitative or rehabilitative care required under this section and not covered by the  
59 insurer, corporation or health maintenance organization as of December 31, 2010, if:

60 (1) an actuary, affiliated with the insurer, corporation or health maintenance organization  
61 certifies in writing to the commissioner of insurance that:

62 (i) based on an analysis to be completed by each insurer, corporation or health maintenance  
63 organization for the most recent experience period of at least 1 year's duration, the costs  
64 associated with coverage of habilitative or rehabilitative care required under this section, and not  
65 covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the  
66 experience period by the insurer, corporation or health maintenance organization;

67 (ii) those costs solely would lead to an increase in average premiums charged of more than 1 per  
68 cent for all insurance policies, subscription contracts or health care plans commencing on  
69 inception or the next renewal date, based on the premium rating methodology and practices the  
70 insurer, corporation or health maintenance organization employs; and

71 (iii) the commissioner of insurance approves the certification of the actuary.

72 (2) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an insurer,  
73 corporation or health maintenance organization may elect to continue to provide coverage for  
74 habilitative or rehabilitative care required under this section.

75 SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting after section 47Z  
76 the following section:-

77 Section 47AA. (a) As used in this section the following words shall, unless the context clearly  
78 requires otherwise, have the following meanings:-

79 “Actuary”, a person who is a member of American Academy of Actuaries and meets Academy’s  
80 professional qualification standards for rendering an actuarial opinion related to health insurance  
81 rate making,

82 “Applied behavior analysis”, the design, implementation and evaluation of environmental  
83 modifications, using behavioral stimuli and consequences, to produce socially significant  
84 improvement in human behavior, including the use of direct observation, measurement and  
85 functional analysis of the relationship between environment and behavior.

86 “Autism services provider”, a person, entity or group that provides treatment of autism spectrum  
87 disorders.

88 “Autism spectrum disorders”, any of the Pervasive Developmental Disorders as defined by the  
89 most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including  
90 Autistic Disorder, Asperger’s Disorder, and Pervasive Developmental Disorders Not Otherwise  
91 Specified.

92 “Board certified behavior analyst”, a behavior analyst credentialed by the Behavior Analyst  
93 Certification Board as a board certified behavior analyst.

94 “Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations  
95 including neuropsychological evaluations, genetic testing or other tests to diagnose whether an  
96 individual has 1 of the autism spectrum disorders.

97 “Habilitative or rehabilitative care”, professional, counseling and guidance services and  
98 treatment programs, including but not limited to, applied behavior analysis supervised by a board  
99 certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum  
100 extent practicable, the functioning of an individual.

101 “Pharmacy care”, medications prescribed by a licensed physician and health-related services  
102 deemed medically necessary to determine the need or effectiveness of the medications, to the  
103 same extent that pharmacy care is provided by the policy for other medical conditions.

104 “Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state  
105 in which the psychiatrist practices.

106 “Psychological care”, direct or consultative services provided by a psychologist licensed in the  
107 state in which the psychologist practices.

108 “Therapeutic care”, services provided by licensed or certified speech therapists, occupational  
109 therapists, physical therapists or social workers.

110 “Treatment of Autism Spectrum Disorders”, includes the following care prescribed, provided or  
111 ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed  
112 physician or a licensed psychologist who determines the care to be medically necessary:  
113 habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and  
114 therapeutic care.

115 (b) An individual policy of accident and sickness insurance issued pursuant to section 108 that  
116 provides hospital expense and surgical expense insurance and any group blanket or general  
117 policy of accident and sickness insurance issued pursuant to section 110 that provides hospital  
118 expense and surgical expense insurance, which is issued or renewed within or without the  
119 commonwealth, shall provide benefits on a nondiscriminatory basis to residents of the  
120 commonwealth and to all policyholders having a principal place of employment in the  
121 commonwealth for the diagnosis and treatment of Autism Spectrum Disorder in individuals.

122 (c) Any such policy shall be in compliance with subsection (b) if the policy does not contain any  
123 annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment  
124 of Autism Spectrum Disorders which is less than any annual or lifetime dollar or unit of service  
125 limitation imposed on coverage for the diagnosis and treatment of physical conditions.

126 (d) This section shall not limit benefits that are otherwise available to an individual under a  
127 health insurance policy.

128 (e) Coverage under this section shall not be subject to any limits on the number of visits an  
129 individual may make to an autism services provider.

130 (f) This section shall not affect any obligation to provide services to an individual under an  
131 individualized family service plan, an individualized education program or an individualized

132 service plan. Services related to autism spectrum disorder provided by school personnel pursuant  
133 to an individualized education program are not subject to reimbursement under this section.

134 (g) An insurer, corporation or health maintenance organization shall be exempt from providing  
135 coverage for habilitative or rehabilitative care required under this section and not covered by the  
136 insurer, corporation or health maintenance organization as of December 31, 2010, if:

137 (1) an actuary, affiliated with the insurer, corporation or health maintenance organization  
138 certifies in writing to the commissioner of insurance that:

139 (i) based on an analysis to be completed by each insurer, corporation or health maintenance  
140 organization for the most recent experience period of at least 1 year's duration, the costs  
141 associated with coverage of habilitative or rehabilitative care required under this section, and not  
142 covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the  
143 experience period by the insurer, corporation or health maintenance organization;

144 (ii) those costs solely would lead to an increase in average premiums charged of more than 1 per  
145 cent for all insurance policies, subscription contracts or health care plans commencing on  
146 inception or the next renewal date, based on the premium rating methodology and practices the  
147 insurer, corporation or health maintenance organization employs; and

148 (iii) the commissioner of insurance approves the certification of the actuary.

149 (2) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an insurer,  
150 corporation or health maintenance organization may elect to continue to provide coverage for  
151 habilitative or rehabilitative care required under this section.

152 SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after section  
153 8CC the following section:-

154 Section 8DD. (a) As used in this section the following words shall, unless the context clearly  
155 requires otherwise, have the following meanings:-

156 "Actuary", a person who is a member of American Academy of Actuaries and meets Academy's  
157 professional qualification standards for rendering an actuarial opinion related to health insurance  
158 rate making,

159 “Applied behavior analysis”, the design, implementation and evaluation of environmental  
160 modifications, using behavioral stimuli and consequences, to produce socially significant  
161 improvement in human behavior, including the use of direct observation, measurement and  
162 functional analysis of the relationship between environment and behavior.

163 “Autism services provider”, a person, entity or group that provides treatment of autism spectrum  
164 disorders.

165 “Autism spectrum disorders”, any of the Pervasive Developmental Disorders as defined by the  
166 most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including  
167 Autistic Disorder, Asperger’s Disorder, and Pervasive Developmental Disorders Not Otherwise  
168 Specified.

169 “Board certified behavior analyst”, a behavior analyst credentialed by the Behavior Analyst  
170 Certification Board as a board certified behavior analyst.

171 “Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations  
172 including neuropsychological evaluations, genetic testing or other tests to diagnose whether an  
173 individual has 1 of the autism spectrum disorders.

174 “Habilitative or rehabilitative care”, professional, counseling and guidance services and  
175 treatment programs, including but not limited to, applied behavior analysis supervised by a board  
176 certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum  
177 extent practicable, the functioning of an individual.

178 “Pharmacy care”, medications prescribed by a licensed physician and health-related services  
179 deemed medically necessary to determine the need or effectiveness of the medications, to the  
180 same extent that pharmacy care is provided by the contract for other medical conditions.

181 “Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state  
182 in which the psychiatrist practices.

183 “Psychological care”, direct or consultative services provided by a psychologist licensed in the  
184 state in which the psychologist practices.

185 “Therapeutic care”, services provided by licensed or certified speech therapists, occupational  
186 therapists, physical therapists or social workers.

187 “Treatment of Autism Spectrum Disorders”, includes the following care prescribed, provided or  
188 ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed  
189 physician or a licensed psychologist who determines the care to be medically necessary:  
190 habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and  
191 therapeutic care.

192 (b) A contract between a subscriber and the corporation under an individual or group hospital  
193 service plan which is issued or renewed within or without the commonwealth shall provide  
194 benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders  
195 having a principal place of employment in the commonwealth for the diagnosis and treatment of  
196 Autism Spectrum Disorder in individuals.

197 (c) Any such contract shall be in compliance with subsection (b) if the contract does not contain  
198 any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and  
199 treatment of Autism Spectrum Disorders which is less than any annual or lifetime dollar or unit  
200 of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

201 (d) This section shall not limit benefits that are otherwise available to an individual under a  
202 health insurance policy.

203 (e) Coverage under this section shall not be subject to any limits on the number of visits an  
204 individual may make to an autism services provider.

205 (f) This section shall not affect any obligation to provide services to an individual under an  
206 individualized family service plan, an individualized education program or an individualized  
207 service plan. Services related to autism spectrum disorder provided by school personnel pursuant  
208 to an individualized education program are not subject to reimbursement under this section.

209 (g) An insurer, corporation or health maintenance organization shall be exempt from providing  
210 coverage for habilitative or rehabilitative care required under this section and not covered by the  
211 insurer, corporation or health maintenance organization as of December 31, 2010, if:

212 (1) an actuary, affiliated with the insurer, corporation or health maintenance organization  
213 certifies in writing to the commissioner of insurance that:

214 (i) based on an analysis to be completed by each insurer, corporation or health maintenance  
215 organization for the most recent experience period of at least 1 year’s duration, the costs

216 associated with coverage of habilitative or rehabilitative care required under this section, and not  
217 covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the  
218 experience period by the insurer, corporation or health maintenance organization;

219 (ii) those costs solely would lead to an increase in average premiums charged of more than 1 per  
220 cent for all insurance policies, subscription contracts or health care plans commencing on  
221 inception or the next renewal date, based on the premium rating methodology and practices the  
222 insurer, corporation or health maintenance organization employs; and

223 (iii) the commissioner of insurance approves the certification of the actuary.

224 (2) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an insurer,  
225 corporation or health maintenance organization may elect to continue to provide coverage for  
226 habilitative or rehabilitative care required under this section.

227 SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after section  
228 4CC the following section:-

229 Section 4DD. (a) As used in this section the following words shall, unless the context clearly  
230 requires otherwise, have the following meanings:-

231 “Actuary”, a person who is a member of American Academy of Actuaries and meets Academy’s  
232 professional qualification standards for rendering an actuarial opinion related to health insurance  
233 rate making,

234 “Applied behavior analysis”, the design, implementation and evaluation of environmental  
235 modifications, using behavioral stimuli and consequences, to produce socially significant  
236 improvement in human behavior, including the use of direct observation, measurement and  
237 functional analysis of the relationship between environment and behavior.

238 “Autism services provider”, a person, entity or group that provides treatment of autism spectrum  
239 disorders.

240 “Autism spectrum disorders”, any of the Pervasive Developmental Disorders as defined by the  
241 most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including  
242 Autistic Disorder, Asperger’s Disorder, and Pervasive Developmental Disorders Not Otherwise  
243 Specified.

244 “Board certified behavior analyst”, a behavior analyst credentialed by the Behavior Analyst  
245 Certification Board as a board certified behavior analyst.

246 “Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations  
247 including neuropsychological evaluations, genetic testing or other tests to diagnose whether an  
248 individual has 1 of the autism spectrum disorders.

249 “Habilitative or rehabilitative care”, professional, counseling and guidance services and  
250 treatment programs, including but not limited to, applied behavior analysis supervised by a board  
251 certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum  
252 extent practicable, the functioning of an individual.

253 “Pharmacy care”, medications prescribed by a licensed physician and health-related services  
254 deemed medically necessary to determine the need or effectiveness of the medications, to the  
255 same extent that pharmacy care is provided by the certificate for other medical conditions.

256 “Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state  
257 in which the psychiatrist practices.

258 “Psychological care”, direct or consultative services provided by a psychologist licensed in the  
259 state in which the psychologist practices.

260 “Therapeutic care”, services provided by licensed or certified speech therapists, occupational  
261 therapists, physical therapists or social workers.

262 “Treatment of Autism Spectrum Disorders”, includes the following care prescribed, provided or  
263 ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed  
264 physician or a licensed psychologist who determines the care to be medically necessary:  
265 habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and  
266 therapeutic care.

267 (b) A subscription certificate under an individual or group medical service agreement which is  
268 issued or renewed within or without the commonwealth shall provide benefits on a  
269 nondiscriminatory basis to residents of the commonwealth and to all policyholders having a  
270 principal place of employment in the commonwealth for the diagnosis and treatment of Autism  
271 Spectrum Disorder in individuals.

272 (c) Any such certificate shall be in compliance with subsection (b) if the certificate does not  
273 contain any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis  
274 and treatment of Autism Spectrum Disorders which is less than any annual or lifetime dollar or  
275 unit of service limitation imposed on coverage for the diagnosis and treatment of physical  
276 conditions.

277 (d) This section shall not limit benefits that are otherwise available to an individual under a  
278 health insurance policy.

279 (e) Coverage under this section shall not be subject to any limits on the number of visits an  
280 individual may make to an autism services provider.

281 (f) This section shall not affect any obligation to provide services to an individual under an  
282 individualized family service plan, an individualized education program or an individualized  
283 service plan. Services related to autism spectrum disorder provided by school personnel pursuant  
284 to an individualized education program are not subject to reimbursement under this section.

285 (g) An insurer, corporation or health maintenance organization shall be exempt from providing  
286 coverage for habilitative or rehabilitative care required under this section and not covered by the  
287 insurer, corporation or health maintenance organization as of December 31, 2010, if:

288 (1) an actuary, affiliated with the insurer, corporation or health maintenance organization  
289 certifies in writing to the commissioner of insurance that:

290 (i) based on an analysis to be completed by each insurer, corporation or health maintenance  
291 organization for the most recent experience period of at least 1 year's duration, the costs  
292 associated with coverage of habilitative or rehabilitative care required under this section, and not  
293 covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the  
294 experience period by the insurer, corporation or health maintenance organization;

295 (ii) those costs solely would lead to an increase in average premiums charged of more than 1 per  
296 cent for all insurance policies, subscription contracts or health care plans commencing on  
297 inception or the next renewal date, based on the premium rating methodology and practices the  
298 insurer, corporation or health maintenance organization employs; and

299 (iii) the commissioner of insurance approves the certification of the actuary.

300 (2) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an insurer,  
301 corporation or health maintenance organization may elect to continue to provide coverage for  
302 habilitative or rehabilitative care required under this section.

303 SECTION 5. Chapter 176G of the General Laws is hereby amended by inserting after section 4U  
304 the following section:-

305 Section 4V. (a) As used in this section the following words shall, unless the context clearly  
306 requires otherwise, have the following meanings:-

307 “Actuary”, a person who is a member of American Academy of Actuaries and meets Academy’s  
308 professional qualification standards for rendering an actuarial opinion related to health insurance  
309 rate making,

310 “Applied behavior analysis”, the design, implementation and evaluation of environmental  
311 modifications, using behavioral stimuli and consequences, to produce socially significant  
312 improvement in human behavior, including the use of direct observation, measurement and  
313 functional analysis of the relationship between environment and behavior.

314 “Autism services provider”, a person, entity or group that provides treatment of autism spectrum  
315 disorders.

316 “Autism spectrum disorders”, any of the Pervasive Developmental Disorders as defined by the  
317 most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including  
318 Autistic Disorder, Asperger’s Disorder, and Pervasive Developmental Disorders Not Otherwise  
319 Specified.

320 “Board certified behavior analyst”, a behavior analyst credentialed by the Behavior Analyst  
321 Certification Board as a board certified behavior analyst.

322 “Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations  
323 including neuropsychological evaluations, genetic testing or other tests to diagnose whether an  
324 individual has 1 of the autism spectrum disorders.

325 “Habilitative or rehabilitative care”, professional, counseling and guidance services and  
326 treatment programs, including but not limited to, applied behavior analysis supervised by a board  
327 certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum  
328 extent practicable, the functioning of an individual.

329 “Pharmacy care”, medications prescribed by a licensed physician and health-related services  
330 deemed medically necessary to determine the need or effectiveness of the medications, to the  
331 same extent that pharmacy care is provided by the contract for other medical conditions.

332 “Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state  
333 in which the psychiatrist practices.

334 “Psychological care”, direct or consultative services provided by a psychologist licensed in the  
335 state in which the psychologist practices.

336 “Therapeutic care”, services provided by licensed or certified speech therapists, occupational  
337 therapists, physical therapists or social workers.

338 “Treatment of Autism Spectrum Disorders”, includes the following care prescribed, provided or  
339 ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed  
340 physician or a licensed psychologist who determines the care to be medically necessary:  
341 habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and  
342 therapeutic care.

343 (b) A health maintenance contract issued or renewed within or without the commonwealth shall  
344 provide benefits on a nondiscriminatory basis to residents of the commonwealth and to all  
345 policyholders having a principal place of employment in the commonwealth for the diagnosis  
346 and treatment of Autism Spectrum Disorder in individuals.

347 (c) A health maintenance contract shall be in compliance with subsection (b) if the contract does  
348 not contain any annual or lifetime dollar or unit of service limitation on coverage for the  
349 diagnosis and treatment of Autism Spectrum Disorders which is less than any annual or lifetime  
350 dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of  
351 physical conditions.

352 (d) This section shall not limit benefits that are otherwise available to an individual under a  
353 health insurance policy.

354 (e) Coverage under this section shall not be subject to any limits on the number of visits an  
355 individual may make to an autism services provider.

356 (f) This section shall not affect any obligation to provide services to an individual under an  
357 individualized family service plan, an individualized education program or an individualized

358 service plan. Services related to autism spectrum disorder provided by school personnel pursuant  
359 to an individualized education program are not subject to reimbursement under this section.

360 (g) An insurer, corporation or health maintenance organization shall be exempt from providing  
361 coverage for habilitative or rehabilitative care required under this section and not covered by the  
362 insurer, corporation or health maintenance organization as of December 31, 2010, if:

363 (1) an actuary, affiliated with the insurer, corporation or health maintenance organization  
364 certifies in writing to the commissioner of insurance that:

365 (i) based on an analysis to be completed not more than once annually by each insurer,  
366 corporation or health maintenance organization for the most recent experience period of at least 1  
367 year's duration, the costs associated with coverage of habilitative or rehabilitative care required  
368 under this section, and not covered as of December 31, 2010, exceeded 1 per cent of the  
369 premiums charged over the experience period by the insurer, corporation or health maintenance  
370 organization;

371 (ii) those costs solely would lead to an increase in average premiums charged of more than 1 per  
372 cent for all insurance policies, subscription contracts or health care plans commencing on  
373 inception or the next renewal date, based on the premium rating methodology and practices the  
374 insurer, corporation or health maintenance organization employs; and

375 (iii) the commissioner of insurance approves the certification of the actuary.

376 (2) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an insurer,  
377 corporation or health maintenance organization may elect to continue to provide coverage for  
378 habilitative or rehabilitative care required under this section.

379 SECTION 6. All policies, contracts and certificates of health insurance subject to the provisions  
380 of section 25 of chapter 32A, section 47AA of chapter 175, section 8DD of chapter 176A,  
381 section 4CC of chapter 176B, and section 4V of chapter 176G of the General Laws which are  
382 delivered, issued or renewed on or after January 1, 2011 shall conform with the provisions of this  
383 act. Form filings implementing this act shall be subject to the approval of the commissioner of  
384 insurance.

385 SECTION 7. This act shall take effect on January 1, 2011.