



## **NOTICE: Guidance on Autism Spectrum Disorder and Applied Behavioral Analysis Coverage**

For all ASO-ERISA groups. Effective on or after January 1, 2023.

The Department of Labor has undertaken a review of group health plans in Virginia who have excluded coverage for Applied Behavioral Analysis (ABA) therapy for the treatment of autism spectrum disorder.

Under MHPAEA and the Final Regulations, “[m]ental health benefits means benefits with respect to items or services for mental health conditions, as defined under the terms of the plan or health insurance coverage and in accordance with applicable Federal and State law. Any condition defined by the plan or coverage as being or as not being a mental health condition must be defined to be consistent with generally recognized independent standards of current medical practice (for example, the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM), the most current version of the [International Classification of Diseases] ICD, or State guidelines).” 29 CFR 2590.712(a).

In its review of some group health plans, the Department of Labor found that the plans were not able to provide supporting documentation for the classification of autism spectrum disorder as a medical condition. If a group health plan covers autism spectrum disorder as a medical condition, the Department of Labor reinforced that the plan must have supporting documentation. Without such documentation, autism spectrum disorder will be considered a mental health condition.

If a group health plan covers autism spectrum disorder as a mental health condition and excludes applied behavioral analysis (ABA) therapy (without any supporting documentation), such exclusion is a violation of the MHPAEA as a separate treatment limitation because it is applicable only with respect to mental health benefits.

If a group health plan that Anthem services elects to define autism spectrum disorder as a medical condition, the group must have supporting documentation. If a group health plan that Anthem services excludes coverage of ABA therapy (when autism spectrum disorder is a covered mental health condition), the group must supply a sufficient comparative analysis demonstrating that the exclusion complies with MHPAEA. The Department has notified Anthem of its intention to review those plans' documentation and comparative analyses for compliance with MHPAEA.

Should you have any questions please contact your Sales representative.