

The Autism Omnibus Law

The Autism Center of Massachusetts Advocates for Children

<http://massadvocates.org/autism-omnibus-law/>

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Background

Autism Commission was established in 2010 by Gov. Patrick to address:

1. Services for people with Autism Spectrum Disorder (ASD)
2. Gaps in services
3. Recommendations
4. Report and recommendations released in 2013

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Autism Omnibus Law

- A landmark piece of legislation addressing the unmet needs of children and adults with ASD
 - Six bills were combined into one law
- Signed by Governor Patrick on **August 5, 2014**
- Effective 90 days from the date of signing (still takes more time for state to implement)

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Autism Omnibus Law

Overview Major Components:

1. Require MassHealth to cover medically necessary treatments for low income children with ASD. Slide No. 7
2. Creation of tax-free saving accounts. Slide No. 18
3. Create an autism endorsement for teachers. Slide No. 26
4. Department of Mental Health (DMH) & DDS –must develop plan for adults with mental illness & developmental disabilities. Slide No. 29
5. Change adult eligibility criteria for the Department of Developmental Services (DDS). Slide No. 31
6. Establish the Autism Commission as a permanent entity. Slide No. 42

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1. MassHealth Coverage

- **Problem:**
MassHealth members with ASD are excluded from the benefits of the state autism insurance law (ARICA).
- **Solution:**
MassHealth is now required to cover medically necessary treatments for children with ASD who are under 21 years old – including:
 - Applied Behavioral Analysis (ABA)
 - Augmentative and Alternative Communication (AAC) devices, including tablets

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Difference between MassHealth and Autism waiver?

- **MassHealth coverage - MassHealth must provide:**
 - “Medically necessary” services, including ABA
 - Coverage for all children 0-21 with ASD who need the services
- **Children’s Autism Medicaid Waiver:**
 - Covers more than medically necessary services
 - Limited slots for children at risk of institutionalization
 - Participant directed (more control)
 - Only for children 0-8

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MassHealth coverage for ABA services

ABA coverage

- Children under 21 diagnosed with ASD are covered through their managed care plans under MassHealth
 - Standard
 - CommonHealth
 - Family Assistance
- Coverage also available to children with MassHealth as secondary insurance

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Parents: coverage for ABA services

MassHealth as Primary Insurance

- Contact an ABA provider enrolled with MassHealth to request ABA services
- Provide an ASD evaluation with need for ABA from doctor or psychologist

Provider will need to contact MassHealth for prior authorization before evaluating your child and creating an ABA treatment plan

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ABA coverage for MassHealth as secondary insurance

MassHealth as Secondary Insurance

- If your primary insurance does not provide ABA services, you can still obtain ABA coverage from MassHealth
- The Massachusetts Behavioral Health Partnership (MBHP) covers co-pays and deductibles for children who receive ABA services through private insurance and are enrolled with MBPH
- MBHP is processing provider claims for cost-sharing for ABA service dates back to May 18, 2015

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Providers: coverage for ABA services

Steps for Providers

1. Apply to become a MassHealth-approved ABA provider
2. Before providing any services, request authorization of coverage for ABA evaluation and services from the child's managed care plan
 - Need an ASD evaluation with need for ABA from child's doctor or psychologist
3. Providers also need to be authorized by MBHP for cost-sharing when MassHealth is secondary insurance

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Who can provide ABA coverage?

ABA has to be provided by licensed applied behavior analysts

- Includes clinician or non-licensed paraprofessional must be supervised by licensed provider/behavior analyst

(Board Certified Behavior Analyst until licensure launched)

Unanswered questions

- Once services are approved, how long is the authorization?
 - Treatments will be authorized for six months
- Rates?
- ?

What is an AAC device?

Augmentative and Alternative Communication ("AAC") Devices

Devices used by people who are non-verbal or who have limited speech (all disabilities).

- Low-tech options (not electronic):
 - including communication boards and books.
- High-tech devices (electronic):
 - including tablets, that produce speech or written output.

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MassHealth covers tablets (iPads)

- **Before** changes to the law, MassHealth covered devices used *only for communication*, such as the "Dynovox" ("dedicated" devices).
- Mass Health **now** covers electronic tablets used for AAC, along with related software, which is medically necessary for communication.

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What is the process for approval?

Process generally same as all other AAC devices

Referral for an evaluation by a licensed Speech and language pathologist (SLP) to determine:

- 1) If device is "medically necessary"
 - If device is likely to develop communication abilities
 - Conduct trials of different types of devices
 - Cost –effective
- 2) Also need diagnosis of severe communication disorder from member's healthcare practitioner
- 3) SLP will recommend device and an approved provider for the tablet
- 4) Member or guardian signs delivery ticket when obtaining device. **For tablets, must confirm that device configured for communication only – email and text**

Where do you go to get a tablet?

- All Durable Medical Equipment (DME) needs to be obtained from a MassHealth approved provider.

2. Creation of ABLE Accounts

(Achieving A Better Life Experience)

Problem:

- There are added costs to living with a disability.
- Additional expenses /worries
 - Risks of losing public benefits with savings
 - Federally imposed asset limits

Solution:

ABLE accounts allow an individual to save money to pay for disability-related expenses:

- Tax-free savings accounts
- Protects benefits (even if employed)
- Owned by person with a disability

What is an ABLE account?

- ABLE savings accounts are used to pay for a broad range of supports and services for the individual with a disability
- These are called **qualified disability expense**
- Will be administered by the Massachusetts Education Financing Authority ("MEFA")

What is a "Qualified Disability Expense"?

- A "Qualified Disability Expense" is an expense made on behalf of the individual with a disability and includes:
 - Education
 - Housing (* some limitations)
 - Transportation
 - Employment training and support
 - Assistive technology
 - Personal support services
 - Health care expenses
 - Financial management and administrative services
 - Legal fees
 - Expenses of oversight and monitoring
 - Funeral and burial expenses, and
 - Any other future expenses approved under federal regulations.
- Penalties will result if ABLE account used for non-qualified expenses

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ABLE Eligibility

Individuals with disabilities who:

- 1) Receive benefits under SSI and/or SSDI
 - or**
 - Submit Disability Certification
- 2) Disability age of onset occurs before age 26

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How much money can be put in an ABLÉ account?

- If account exceeds \$100,000
 - SSI eligibility suspended
 - Medicaid eligibility continues
- Annual contribution limit of \$14,000
- In Massachusetts total limit is \$375,000
- Medicaid payback provisions
- An eligible individual may have **one** ABLÉ account

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When will ABLÉ accounts be available?

- The goal is by 2016 (further information soon)
- Federal ABLÉ Act Regulations proposed in June 2015
- Investment firms need to develop and market savings options
- MEFA working to launch the Massachusetts ABLÉ program

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How do you establish an ABLE account?

- **Pending federal regulations will guide MA in terms of:**
 - The information required to open an account
 - The documentation needed for ABLE account eligibility
 - Further details of “qualified disability expenses”
 - Tax reporting

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Choice

- Families should choose the savings option that best meets their individual needs.
- ABLA accounts add another important savings option.
- Learn more from MEFA later this year.
- Consult with financial planning experts to learn more about the option best for you.

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3. Autism endorsement for teachers

Problem:

- It is difficult for schools to educate the increasing numbers of children with ASD.
- In Massachusetts, teaching licenses do not include requiring the skills needed to educate children with ASD.

Solution:

- "Autism Endorsement" certification to learn in-depth knowledge needed to educate students with ASD.

When will Autism Endorsement Be Available?

May take two years before autism specialists are in local schools

- Autism Endorsement regulations issued by June 30, 2015
- Higher Education certification programs need to be approved

Competencies

Teacher competencies will address, but not be limited to, the impact of autism on:

- Verbal and nonverbal communication
- Social interactions
- Sensory experiences
- Behaviors
- Literacy and academic achievement

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4.
DMH and DDS:
a plan for adults
with mental
illness and
developmental
disabilities

- **Problem:**
Individuals diagnosed with both autism and mental illness denied eligibility for adult services from DMH and DDS.
- **Solution:**
Require DMH and DDS to develop a plan to ensure that individuals with both a mental illness and developmental disabilities get needed services from both agencies.

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What will the plan include?

- **The plan may include an interagency agreement which will:**
 - Streamline communication between DDS and DMH
 - Guidelines to determine which services will be provided by which department
 - Ensure that eligible individuals get the services they need from **both** departments

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5. Change adult eligibility criteria for DDS

- **Problem:**
Many adults with autism were ineligible for DDS because they did not have an “intellectual disability” (IQ test score of 70 or below)
- **Solution:**
Adults with autism are now eligible for DDS based on having a developmental disability with “**substantial functional limitations**”

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DDS Proposed Eligibility Criteria

"Developmental disability" is defined as a severe, chronic disability:

- Physical or mental impairment resulting from ASD, Prader Willi or Smith Magenis syndrome onset before age 22
- Results in "substantial functional limitations" in 3 or more of the following areas of major life activity:
 - Self care
 - Receptive and expressive language
 - Learning
 - Mobility
 - Capacity for independent living
 - Economic self-sufficiency
- Likely to continue indefinitely

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What is the eligibility process?

1. Submit an application and all required documentation
2. Regional Eligibility Team schedules an in-person meeting
3. DDS notifies in writing 60 days after meeting

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Application process:

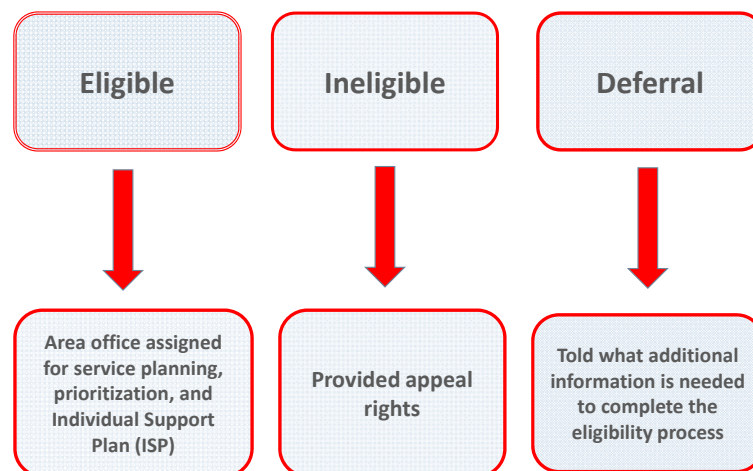
Application process

- Use application for "Adult Eligibility Determination Ages 22+" on MAC and DDS websites
- Send supporting documentation such as:
 - Evaluations showing adult has ASD, completed by a qualified physician or psychologist
 - Documentation that shows ASD began before age 22 and likely to continue indefinitely
 - Reports from previous adaptive assessments
 - IQ does not determine eligibility, but recommended to show needs

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What happens next?



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What DDS services are available?

Adults with ASD (DD) can receive "Community living supports"

Services and Supports that Provide Skill Training and Supervision

- Individualized home supports
- Respite
- Adult companion

Services that Provide Meaningful Day Opportunities

- Community based day supports
- Individualized and group supported employment
- Transportation
- Individualized day support

Additional Supports

- Behavioral supports
- Home modification/adaptation
- Therapies (PT, OT, Speech)
- Assistive technology
- Family training

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What DDS services are available?

Service Limitations:

- Range of services is more limited with ASD/DD than ID
- Currently no group home or 24/7 supported apartment options

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Application process: Age

Age For DDS Adult Services

- Currently: eligible for DDS adult services at age 18
- DDS proposes: changing eligibility to age 22

Question:

If DDS changes age to 22, what about adults who exit special education before 22?

Answer:

Eligible for DDS children's service, not for adult services

Application process: Already applied and been denied

If an individual applied and denied eligibility before the law was passed in August 2014



They should re-apply

6. Autism Commission is permanent

- **Problem:**

The Autism Commission's recommendations needed to be implemented to help Massachusetts improve and expand existing autism services to better meet the needs of residents with autism.

- **Solution:**

The Autism Commission to continue as a permanent group with the responsibility of making sure their recommendations are implemented.

Autism Commission

Monitors services and supports for individuals with ASD , including:

- Public education
- Higher education
- Employment
- Independent living
- Community participation
- Housing
- Social and recreational opportunities.

Autism Omnibus Law Summary

- MassHealth required to cover medically necessary treatments for children under 21 years old with ASD– including ABA & AAC
- Individuals with disabilities can get ABLE accounts which allow them to save money to pay for disability-related expenses
- “Autism Endorsement” certification for teachers to learn in-depth knowledge needed to educate students with ASD
- DMH & DDS to develop a plan for adults who have a mental illness & developmental disabilities
- Adults with ASD are now eligible for DDS based on having a **developmental disability** with “**substantial functional limitations**”
- Made the Autism Commission a permanent group to make sure their recommendations are implemented

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For more
information and
updates

Massachusetts Advocates for Children
Website

<http://massadvocates.org/autism-omnibus-law/>

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Additional Resources

Autism Commission Report

<http://massadvocates.org/publications/massachusetts-autism-commission-report/>

List of ABA Providers

<http://massadvocates.org/wp-content/uploads/New-England-Index-ABA-provider-list.pdf>

Prior authorization to provide ABA (for providers)
MassHealth Prior Authorization Unit - 617-847-3786

<http://www.mass.gov/eohhs/docs/masshealth/provider-services/forms/prior-authorization-request.pdf>

DDS Application

<http://massadvocates.org/wp-content/uploads/DDS-application-adult.pdf>

For More Information

Legal & Technical Resources

Massachusetts Advocates for Children- 617-357- 8438

www.massadvocates.org

Autism Insurance resource Center- 774-455-4056

The Federation for Children with Special Needs - 800-331-0688

www.fcsn.org (Western MA) - 877-388-8180

The Disability Law Center - 617-723-8455

www.dlc-ma.org

The Children's Law Center -781-581-1977

www.clcm.org

The Federal IDEA Regulations (34 CFR 300)

http://www.massadvocates.org/special_education

Massachusetts Special Education Regulations (603 CMR 28)

http://www.massadvocates.org/special_education

For More
Information

Agencies

Department of Developmental Service (DDS)

<http://www.mass.gov/eohhs/gov/departments/dds/>

MassHealth Prior Authorization Unit for ABA Providers- 617-847-3786

MassHealth Premium Assistance 1-800-462-1120

MassHealth customer service- 1-800-841-2900

<http://www.mass.gov/eohhs/gov/departments/masshealth/>

Massachusetts Educational Financing Authority (MEFA) -1-800-841-2900

<http://www.mefa.org/>

Department of Elementary and Secondary Education (DESE) - 781-338-3000

<http://www.doe.mass.edu/>