



# Recent Developments in Insurance Coverage for Individuals with Autism Spectrum Disorders



Interagency Autism  
Coordinating Committee  
Washington, DC  
July 10, 2012

# Health Care in America

“a fundamental principle that here in America -- in the wealthiest nation on Earth -- *no illness or accident should lead to any family’s financial ruin.*”

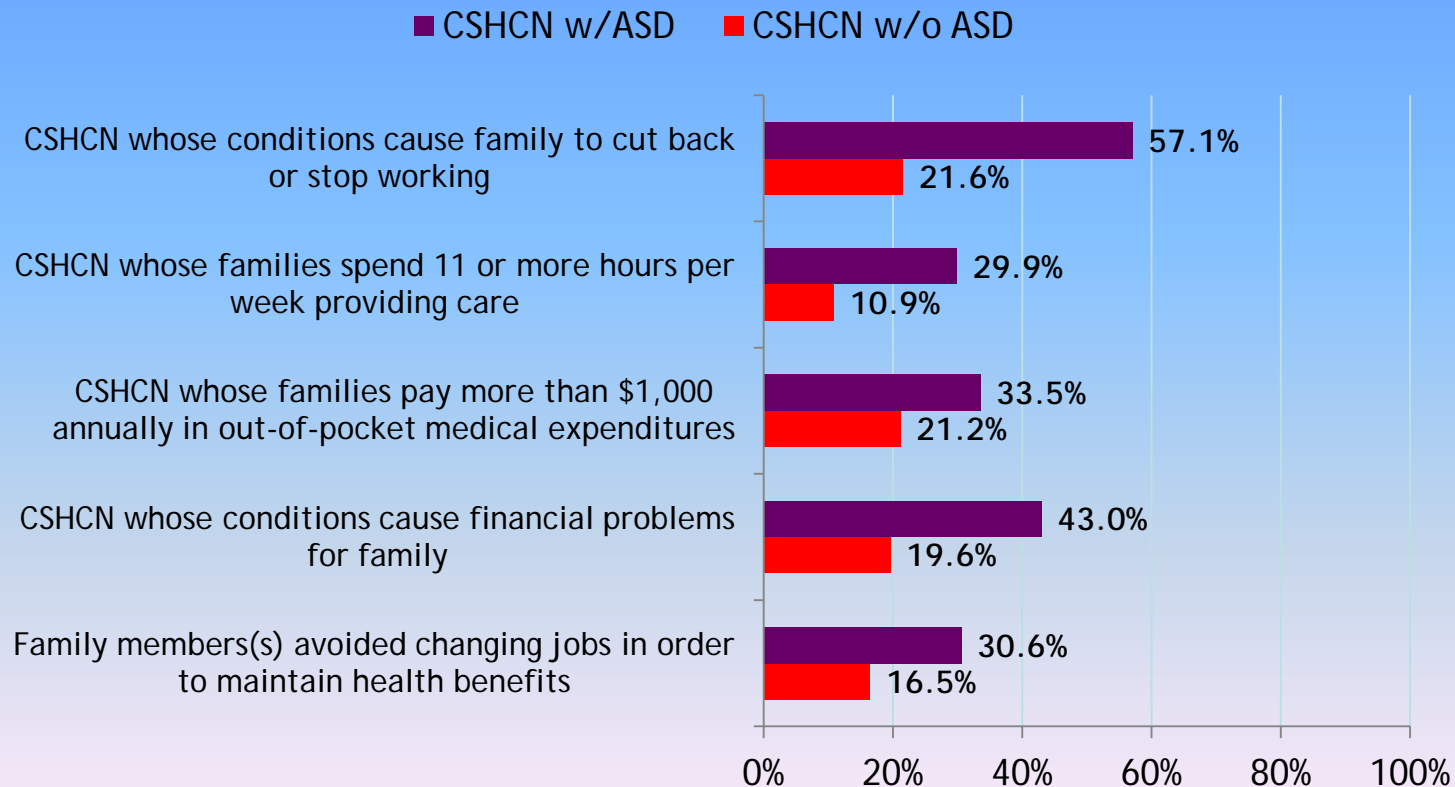


Source: Remarks by President Obama on Supreme Court Ruling on the Affordable Care Act, June 28, 2012.



# Health Care with Autism

## Family Impacts among CSHCN with ASD Compared to CSHCN without ASD



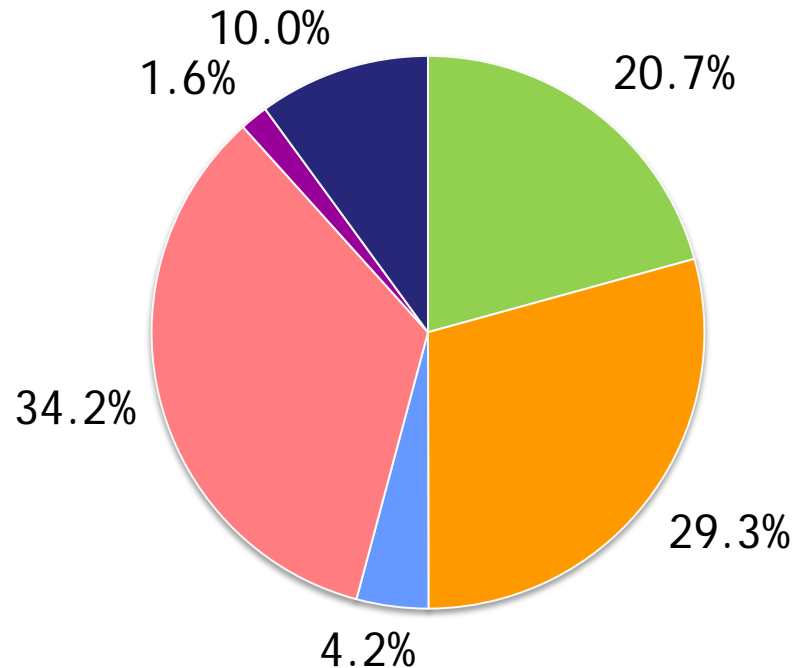
Data Source: 2009/10 NS-CSHCN

Source: Child and Adolescent Health Measurement Initiative (2012). "National Profile of Children with Special Health Care Needs and Autism Spectrum Disorders: Key Findings from the 2009/10 NS-CSHCN and 2007 NSCH."



# Types of Insurance Coverage

## Total U.S. Children (0-18)



■ Fully-Funded ■ Self-Insured ■ Individual  
■ Medicaid ■ Other Public ■ Uninsured

The Kaiser Family Foundation, *statehealthfacts.org*. Data Source: Health Insurance Coverage of Children 0-18, states (2009-2010), U.S. (2010), accessed June 29, 2012.

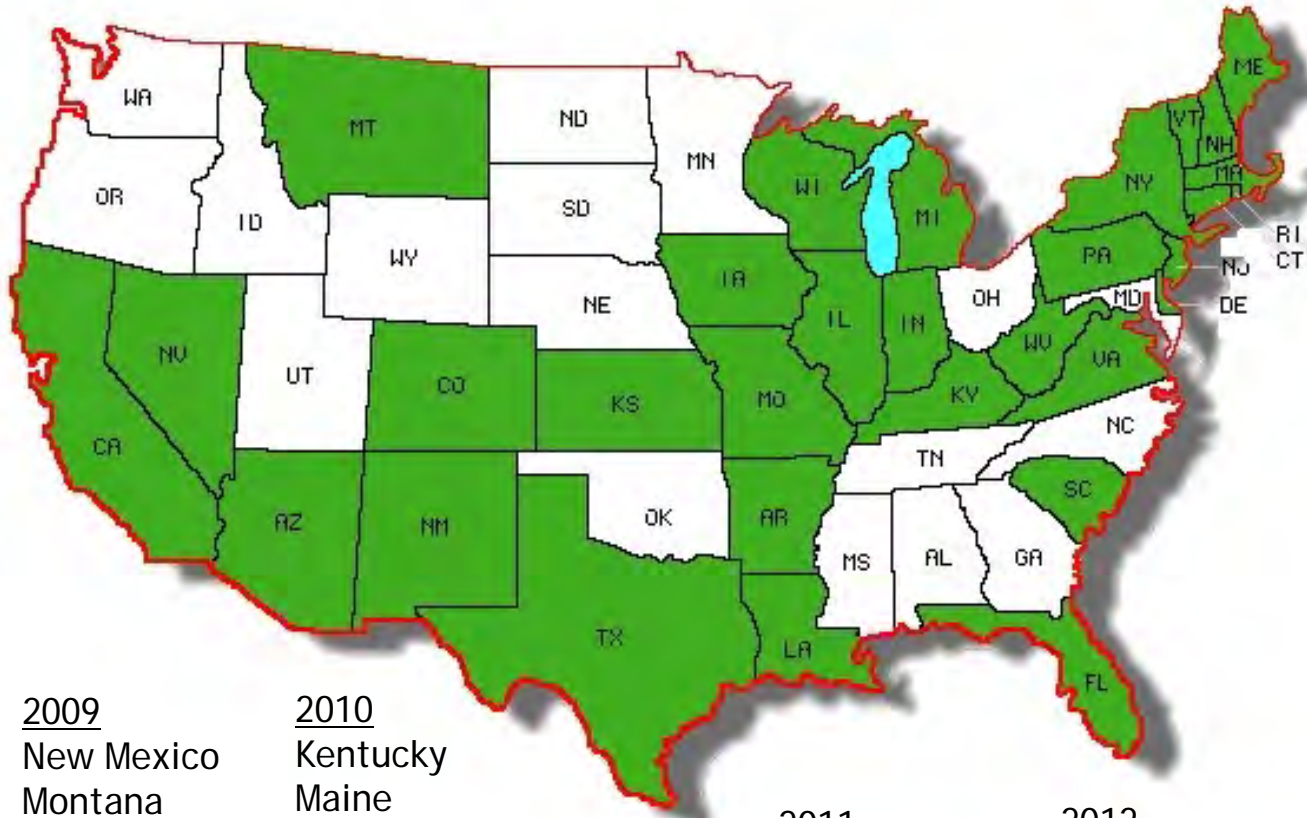
# Autism Insurance Reform

- Fully Funded Plans (Employer-Sponsored and Individual)
  - State-based autism insurance reform
- Self-Funded Plans (regulated by ERISA)
  - More self-insured employers are adopting autism benefits
- Medicaid
  - Ongoing litigation over Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program
- Public Plans (Federal and State)
  - OPM recognized ABA as medical therapy
  - Legislation to make behavioral health treatment for autism part of TRICARE basic plan
- Affordable Care Act
  - Behavioral Health Treatment as an Essential Health Benefit





# State Autism Insurance Reform



Pre-2007  
Indiana

2007  
South Carolina  
Texas

2008  
Arizona  
Florida  
Louisiana  
Pennsylvania  
Illinois

2009  
New Mexico  
Montana  
Nevada  
Colorado  
Connecticut  
New Jersey  
Wisconsin

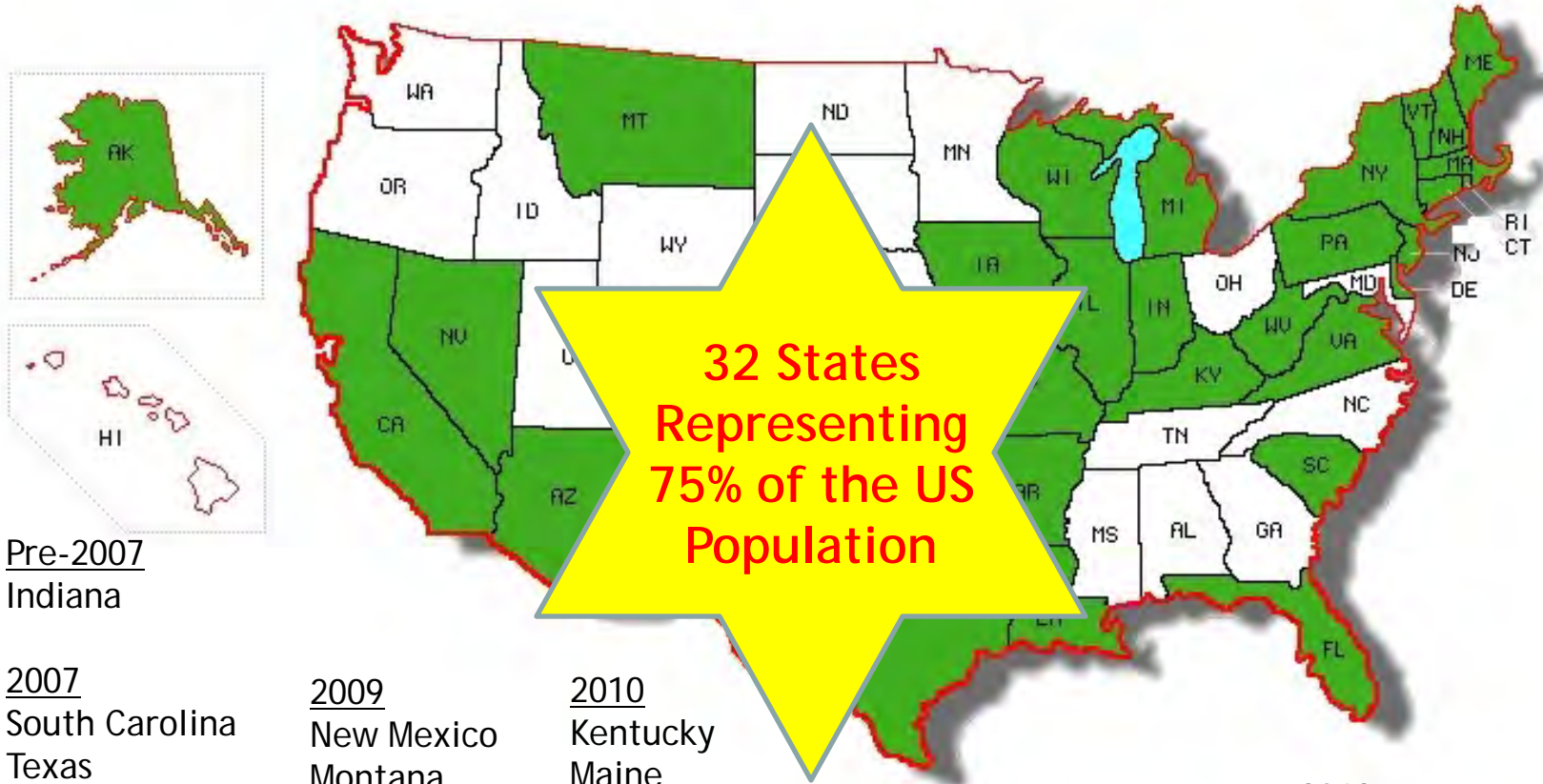
2010  
Kentucky  
Maine  
Vermont  
Kansas  
Iowa  
Missouri  
New Hampshire  
Massachusetts

2011  
Arkansas  
West Virginia  
Virginia  
Rhode Island  
California  
New York

2012  
Michigan  
Alaska  
Delaware



# State Autism Insurance Reform



Pre-2007  
Indiana

2007  
South Carolina  
Texas

2008  
Arizona  
Florida  
Louisiana  
Pennsylvania  
Illinois

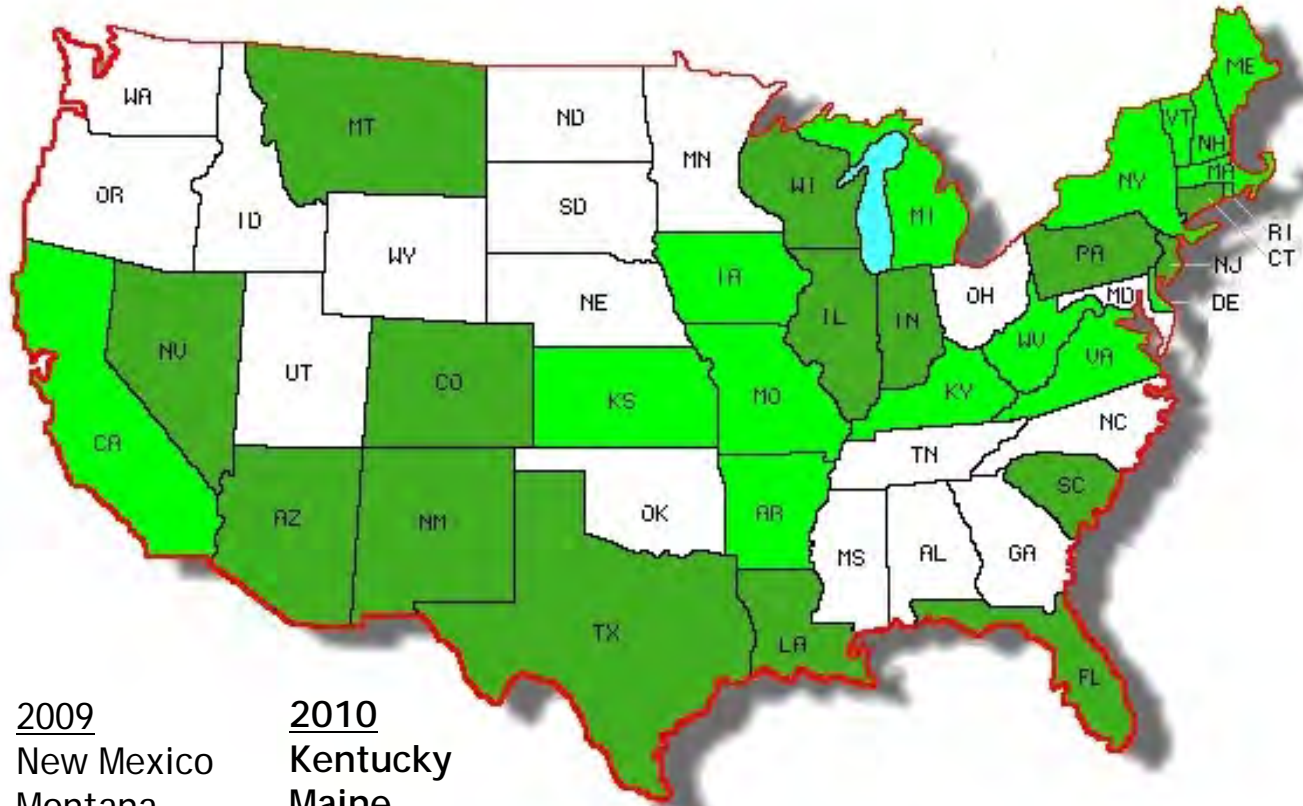
2009  
New Mexico  
Montana  
Nevada  
Colorado  
Connecticut  
New Jersey  
Wisconsin

2010  
Kentucky  
Maine  
Vermont  
Kansas  
Iowa  
Missouri  
New Hampshire  
Massachusetts

2011  
Arkansas  
West Virginia  
Virginia  
Rhode Island  
California  
New York

2012  
Michigan  
Alaska  
Delaware

# Post-ACA Enacted Laws (17 states)



Pre-2007  
Indiana

2007  
South Carolina  
Texas

2008  
Arizona  
Florida  
Louisiana  
Pennsylvania  
Illinois

2009  
New Mexico  
Montana  
Nevada  
Colorado  
Connecticut  
New Jersey  
Wisconsin

2010  
Kentucky  
Maine  
Vermont  
Kansas  
Iowa  
Missouri  
New Hampshire  
Massachusetts

2011  
Arkansas  
West Virginia  
Virginia  
Rhode Island  
California  
New York

2012  
Michigan  
Alaska  
Delaware





# State Expansion Laws (4 states)



Pre-2007  
Indiana

2007  
South Carolina  
**Texas**

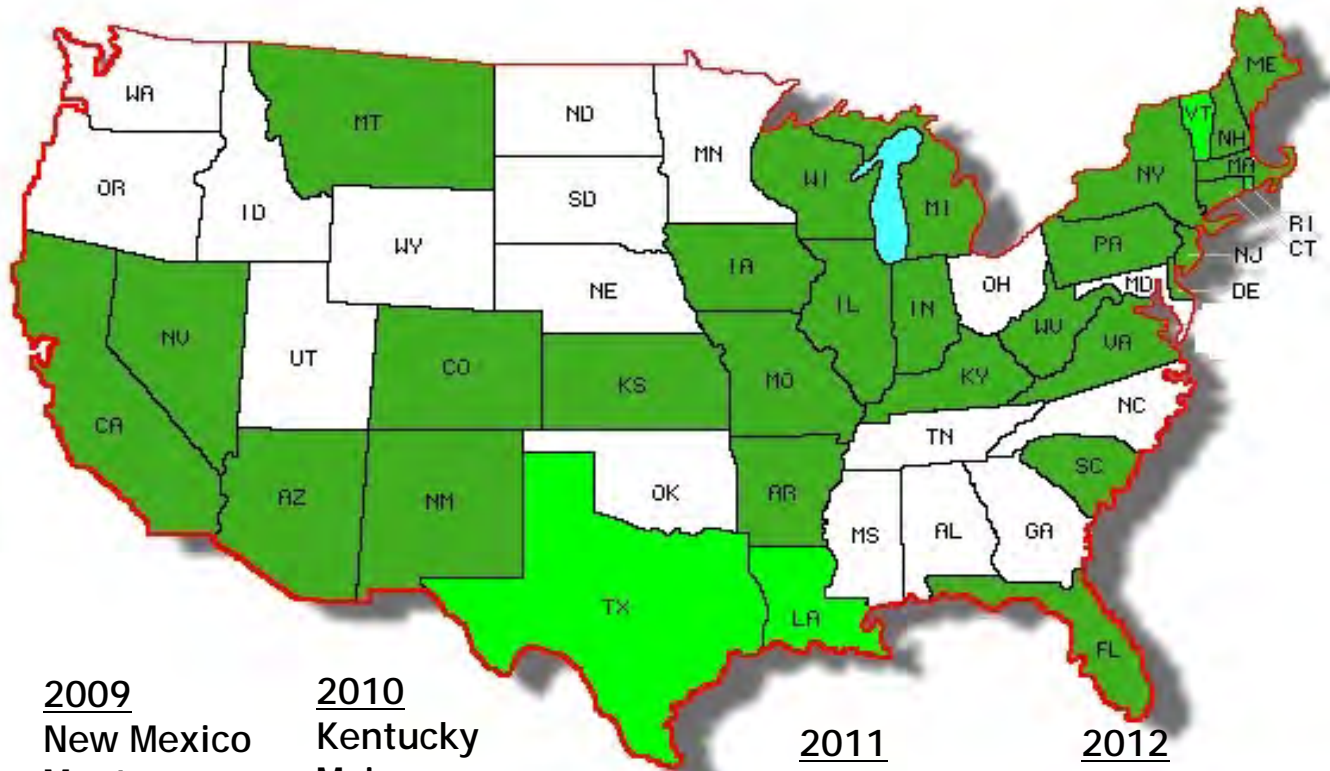
2008  
Arizona  
Florida  
**Louisiana**  
Pennsylvania  
Illinois

2009  
New Mexico  
Montana  
Nevada  
Colorado  
Connecticut  
New Jersey  
Wisconsin

2010  
Kentucky  
Maine  
**Vermont**  
Kansas  
Iowa  
Missouri  
New Hampshire  
Massachusetts

2011  
Arkansas  
West Virginia  
Virginia  
**Rhode Island**  
California  
New York

2012  
Michigan  
Alaska  
Delaware



# Self-Funded Plans with Autism Benefit

- Microsoft
- Home Depot
- Intel
- Capital One
- Eli Lilly
- Deloitte
- The Ohio State University
- Mayo Clinic
- HealthCentral
- Lexington Medical Center
- University of Minnesota
- Harvard University
- Progressive Group
- Time Warner
- City of Atlanta
- Oracle
- Adobe Systems
- Yahoo!
- Cisco
- DTE Energy
- Princeton University
- Children's Mercy
- Aspect Software
- Partners Healthcare



# Medicaid Litigation

- Medicaid mandated, optional, and waiver services provide a range of benefits to individuals with ASD.
- Recent cases have focused on ABA as a benefit under the EPSDT Program:
  - *Parents League for Effective Autism Services v. Jones-Kelley (2009)*, the U.S. Court of Appeals for the Sixth Circuit affirmed a lower court ruling that **ABA** was a covered service under EPSDT.
  - *K.G. v. Dudek (2012)*, the U.S. District Court for the Southern District of Florida found that **ABA** was a required treatment service under EPSDT, rejecting the state's argument that ABA is experimental under Florida law.



# Federal Employees Health Benefits (FEHB) Program

- Office of Personnel Management (OPM) provides health insurance coverage to eight million federal employees, retirees, and dependents through FEHB.
- OPM Benefit Review Panel concluded sufficient evidence exists to categorize ABA as a medical therapy, not just an “educational intervention.”
- In April 2012, OPM issued guidance to insurers who participate in the FEHB Program for policies that will be renewed or issued starting in 2013.
- OPM decision **does not require** the insurers to cover ABA, but rather **allows them to offer** the coverage as it does many other medical treatments.





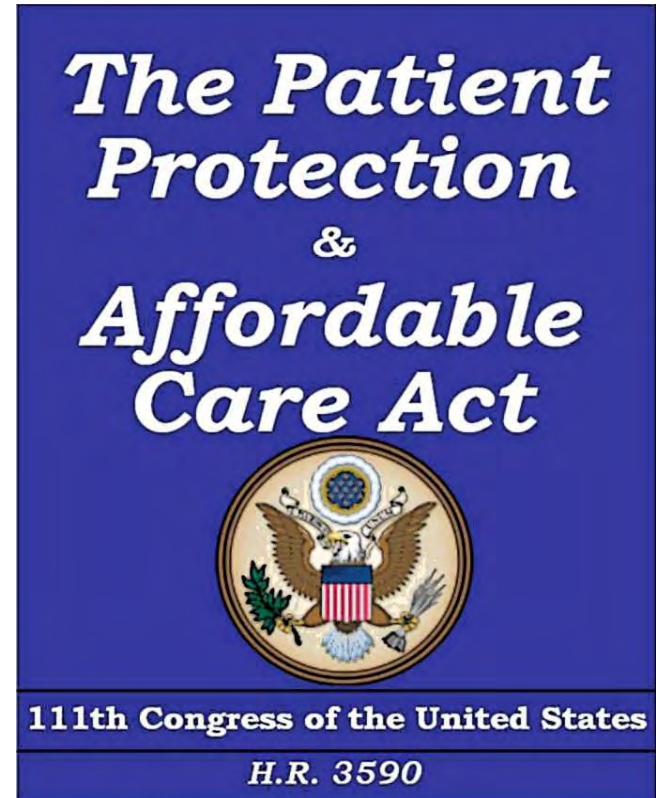
# TRICARE Autism Benefit

- Currently, autism behavioral benefits are capped at \$36,000/year and restricted to active duty military personnel through ECHO Program.
- Caring for Military Kids with Autism Act (H.R. 2288) introduced to make medically necessary behavioral health treatments available to all military dependents through basic TRICARE program.
- Amendment to National Defense Authorization Act (NDAA) approved by the House in May 2012.
- Senate Armed Services Subcommittee on Personnel held a hearing on June 21<sup>st</sup> to consider coverage issues. Floor vote on the Senate version of NDAA is pending.



# Affordable Care Act (ACA)

- Coverage for certain preventive services are required: screening for autism, developmental delays, and other disabilities.
- Prohibits denials based on preexisting conditions.
- Dependents can remain on parents' health plan until age 26.
- Essential Health Benefits (EHB) must include "Mental health and substance use disorder services, including behavioral health treatment."



# Future ACA Challenges

In 2014 state health exchanges will begin operation.

Uncertainties remain about the quality of care exchange plans will provide to people with ASD:

- Habilitative services, a part of the EHB, are not defined.
- States must defray the cost of benefits mandated after 2011 that are part of exchange plans.
- Notwithstanding congressional intent, coverage of behavioral treatment for autism has not been resolved.



Senator Robert Menendez Introduces Autism Insurance Reform Amendment in Senate Finance Committee (September 25, 2009).