



Connor's Law: An Update

The following Q & A is intended to help parents navigate complicated insurance issues.

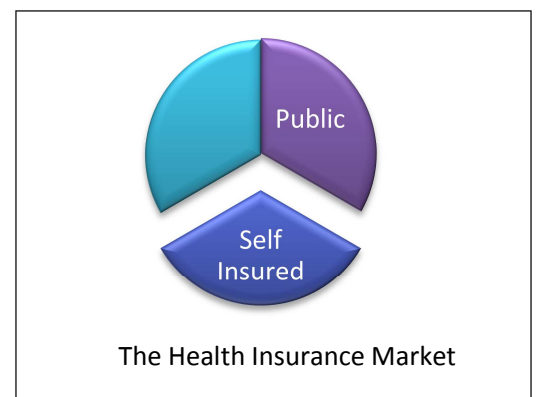
Q. Which health insurance policies are subject to Connor's Law?

A. One of the many confusing things about health insurance is the fact that not all policies are regulated in the same way. To keep it simple, imagine that the insurance market is a pie divided into three roughly equal slices.

- 1) One slice represents publicly funded health insurance – in other words, Medicaid and Medicare. Since we're talking about children, we're concerned with **Medicaid**. One way that children receive Medicaid is through the federal Children's Health Improvement Act (or CHIP). You know CHIP as NH's Health Kids Gold and Silver. CHIP plans are made available by states to children and pregnant women who fall below a certain income level. It's designed to make sure that children in all socio-economic situations receive needed healthcare services as they grow and develop. **Unfortunately, at this time the autism related benefits in Connor's Law do not apply to NH Healthy Kids Gold.**



- 2) The next piece of the pie represents companies – usually large ones -- that cover their employees through what is known as a “self-insured plan.” Technically, these plans are not considered health insurance; instead, they are a “health benefit.” From a consumer perspective, however, these plans look the same as those written by insurance companies like Anthem or Cigna. This is because the corporation typically retains the services of an insurance carrier to process claims and manage the administration of benefits.

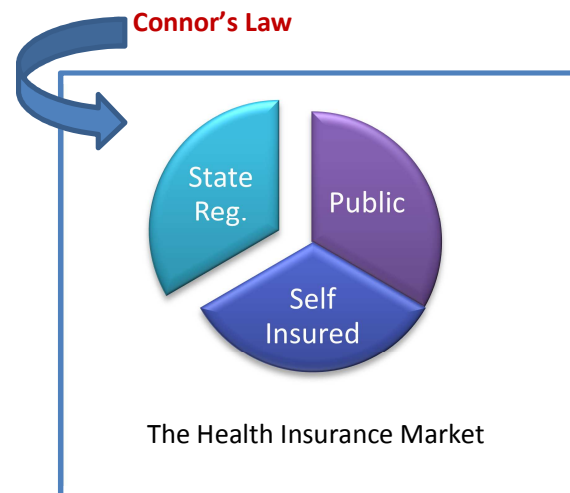


Connor’s Law does not apply to self-insured policies. The option of self-insuring was made possible by a federal law. For this reason, Congress – rather than individual states – regulates these types of plans.

When it comes to any type of regulation, the general rule of thumb is “**the Feds set the floor, and the state raises the roof.**” In other words, the federal government sets a minimum standard below which states cannot go, and which many states choose to exceed. Because it represents a minimum standard – and is therefore thought to be less costly – an increasing number of companies choose to self-insure. This is true for many companies operating in NH – for example, Dartmouth Hitchcock Medical Center, Timkin, Hypertherm, and , yes, the State of NH itself. In truth, this slice probably represents more than a third of the pie; nationally, half of all non-public (that is, privately funded) policies now use this model.

3) So, what’s left?

This final piece is where Connor’s Law comes into play. These are privately funded group plans– typically those offered to employees of small companies that have fewer than 50 workers – that are subject to NH state regulations. Examples of a small group employer might include local businesses like your salon, pizza shop, auto mechanic shop, etc. Note that *individual policies*, those written on behalf of a single person rather than a group of people, were exempted from Connor’s Law. Individual policies represent some of the most expensive insurance on the market, and they are often exempted from state laws in order to avoid driving costs up further.



CONSUMER TIP: If you are unsure whether your employer self-insures or offers a state-regulated plan, contact your company’s human resources department or call the insurance carrier at the customer service number listed on your group insurance card or other documents.

Q. If my health insurance policy is subject to Connor's Law, what kinds of benefits is my child entitled to?

A. Connor's Law says that children with a diagnosis of any of the autism spectrum disorders is entitled to receive all the same benefits that s/he would receive for any other physical condition. Diagnostic evaluation, pharmacy care, and specialty care should all be covered. In point of fact, these were generally being covered prior to the new legislations. What has changed, however, is that Connor's Law closed two loop holes use by insurance carriers to deny certain types of therapy.

- 1) First, therapy base on the principles of applied behavior analysis (ABA) is now a covered service. As the law notes, the use of ABA therapy in the treatment of autism is consistent with the recommendations of the American Academy of Pediatrics. **Coverage for ABA therapy should not be denied based on the claim that it is "experimental."**

It is important to note that certain limits apply here. Children birth to 12 can receive up to \$36,000 annually for ABA. Children 13 to 21 can receive up to \$27,000 annual. These caps apply to ABA only, and other therapies – for example, speech – should not count toward the cap.

- 2) **Second, carriers may not deny coverage for therapy based on the claim that the intervention is "habilitative in nature."** "Habilitation" is a confusing term that means the therapy did not restore a skill or capacity that the patient previously had. In the case of developing children, this makes little sense, and Connor's Law does not permit carriers to use this concept as a basis for denying coverage. Note that this applies to many types of therapy, including speech, occupational therapy, physical therapy, and ABA.

Q. What does a carrier mean when they say I have to use an "in network" provider?

A. Large insurance companies don't like surprises. They prefer to set up a network of providers with whom they have negotiated a contract and set a specific rate. From the provider perspective, it is often advantageous to contract with insurance carriers since they can then bill the carrier directly. Typically providers are willing to accept a somewhat lower fee in exchange for the convenience that direct billing affords their patients.

However, providers may also have good reasons why they do not wish to contract with a particular carrier – for example, they may feel that the carrier is offering too low a rate to allow them to clear their costs. In this case, they be considered an “out-of-network provider.” Some health insurance policies give subscribers the option of using an out-of-network provider, but they will have to pay the provider out of their own pocket and then seek reimbursement from the insurance carrier. Often the co-pay and/or deductible are higher if the consumer chooses to use an out-of-network service

It is important to know that carriers are legally required to make a good faith effort to insure “network adequacy.” This means that they must have enough in-network providers under contract to meet subscriber demand and to assure that consumers can access services within a reasonable distance.

At this time, advocates are aware that Harvard Pilgrim, also identified as United Behavioral Health, has done a good job of establishing a network of eligible providers. There is excellent consumer information on their website.

Anthem, however, has been unable to develop a network. When there is “network insufficiency” – as may be the case here – the consumer can hire a provider of his or her choice and request reimbursement through the carrier at the provider’s full rate (less the subscriber’s deductible). In reality, this often involves a lengthy appeal process. Most parents cannot sustain the up-front costs (as much as 9 months out-of-pocket) before reimbursement is secured retroactively.

ASNH is anxious to talk with any parent currently engaged in this appeal process, or considering pursuing this route. We are working with the Disabilities Rights Center on this issue, and consumers may be in a position to seek court action. (See contact information for ASNH below).

Q. What are my options for advocating that my child have access to benefits similar to Connor’s Law?

A. Even if your policy is not subject to Connor’s Law, there are things you can do to obtain coverage and help extend an autism treatment benefit to all families.

1) NH Healthy Kids: If your primary health insurance comes through NH Healthy Kids (Medicaid), this is an excellent time to let the NH Department of Health and Human Services (DHHS) know how important access to early treatment and appropriate coverage is to the long term welfare of your child. The NH

legislature has recently mandated that DHHS change the delivery of all Medicaid funds to a managed care model. During this time of change, it may be possible to persuade DHHS of the value of an expanded autism benefit. ASNH can assist you with talking points or a draft of a letter that you can tailor to describe your situation.

- 2) Self-insuring Companies: If you are a NH resident and employed by a company that self-insures, we have materials that may help you to advocate your company voluntarily include an autism benefit. Again, ASNH can assist you in approaching the Human Services Department at your company.

CONSUMER TIP: Do not assume that because your employer self-insures, you do not have an autism treatment benefit. A number of companies are now offering a benefit equivalent to that required by Connor's Law. Some, but not all, are listed on the resource page of: www.autismvotes.org

- 3) State-regulated Insurance: If you have denied coverage to which believe you are entitled under Connor's Law, it is especially important to contact ASNH. We are preparing to apply additional pressure on carriers who have failed to secure an adequate network of service providers. Again, in the absence of an adequate network, you are entitled to coverage for equivalent services from an out-of-network provider **at that provider's standard rates**. ASNH can help you navigate the difficult complaint process.

To contact ASNH for assistance in advocating for coverage: Kirsten.Murphy23@gmail.com or call 603-679-2424.