TO: MSSNY Officers, Councilors and Trustees

FROM: MSSNY’s Legislative & Physician Advocacy Committee

DATE: November 5, 2015

RE: RESOLUTION 60 - THIRD-PARTY PAYMENT FOR EVALUATION AND MANAGEMENT OF DEVELOPMENTAL DISORDERS

The following resolution was referred to the Council by the House of Delegates. The resolution was forwarded to the Legislative and Physician Advocacy Committee for further study and recommendation for the Council’s consideration:

RESOLVED, That the Medical Society of the State of New York seek legislation or regulation by New York State to require third party insurers to cover comprehensive diagnostic and therapeutic services for children in need of evaluation for developmental disorders including but not limited to autism, developmental disabilities and learning disabilities and that these services should include the comprehensive evaluation, psychological testing and development of a report and recommendations to address the child’s needs; and be it further

RESOLVED, That MSSNY forward this resolution to the American Medical Association requesting that it seek federal action to secure legislation to require third party insurers to cover comprehensive diagnostic and therapeutic services for children in need of evaluation for developmental disorders including but not limited to autism, developmental disabilities and learning disabilities and that these services should include the comprehensive evaluation, psychological testing and development of a report and recommendations to address the child’s needs, and that these screening services be covered without cost to the patient.

Resolution 60 asks MSSNY to seek legislation or regulation by New York State to require third party insurers to cover comprehensive diagnostic and therapeutic services for children in need of evaluation for developmental disorders including but not limited to autism, developmental disabilities and learning disabilities and that these services should include the comprehensive evaluation, psychological testing and development of a report and recommendations to address the child’s needs; and forward this resolution to the American Medical so that similar federal legislation can be advanced.

At the House of Delegates, the reference committee agreed with the concerns of the sponsor of this resolution regarding the need to assure coverage for appropriate treatment. However, it was referred to Council because it was difficult to identify the exact cause of the problem identified in the resolution. The reference committee was advised that New York recently enacted a law to require health insurers to provide coverage for autism screening and treatment. But that law does not apply to the many self-insured plans used by large employers in New York (regulated by ERISA). The reference committee was also advised of the complex issue identified during the hearing testimony and in discussions with representatives of Pediatric societies that there is apparently a struggle between insurance companies and school districts as to which entity is responsible for paying for needed screening tests to help better identify the educational needs of autistic students. The reference committee believed there were important issues at stake in this resolution not only affecting insurance coverage, but educational issues which may involve work with many other organizations to achieve goals to assure appropriate services for these individuals. Therefore, it was believed more detailed study of these problems was necessary to identify the best course of action for MSSNY.

There was extensive discussion of this issue at the September 9 and October 14 meetings. Comments were made regarding the difficulty in assuring children thought to be suffering from autism can receive the services they need, and the insufficient community services to assist these children. It was also argued that some insurers were not properly following the law and that others were making woefully inadequate payments for this
needed care, which could be the result of an insufficient number of practitioners in-network to provide this coverage. It was also suggested that many children with learning disabilities may not be able to obtain the services they need (either health-related or educational) because they may have developmental disorders that do not technically meet the statutory definition of autism spectrum disorder.

By way of background, New York’s autism coverage mandate went into effect on November 1, 2012. This law requires that NYS regulated health insurance plans cover medically necessary services for the diagnosis and treatment of Autism Spectrum Disorders (ASD) as defined by the Diagnostic and Statistical Manual of Mental Disorders. Children or adults of any age diagnosed with ASD. Health plans must cover evidence-based, medically necessary autism services that are prescribed, provided, or ordered by a licensed physician or licensed psychologist. These services include: Applied Behavioral Analysis, Behavioral Health, Diagnostic Services, Pharmacy, Psychiatric, Psychological, Therapeutic Care, and Assisted Communicative Devices.

In addition to insurance coverage, also discussed at the September 9 and October 14 meetings were the extensive community services that are available to assist those with autism. According to the OPWDD website, children from birth to age 3 are eligible for Early Intervention (EI) services provided by the NYSDOH through local public health offices, which provide screening and a case manager to create an Individualized Family Services Plan (IFSP) for the child and guide the family through the process of identifying and accessing the services needed. EI services include speech, physical, and occupational therapy, psychological and social work services, special instruction, family support groups and assistive technology. If the child is 3 years of age or older, local public school district are responsible for special educational services. These services are free and include comprehensive assessment of a child’s educational needs, as well as speech and language therapy, occupational therapy, physical therapy, curriculum modifications, one-on-one or shared aides, and other educational supports as necessary to meet those needs. Prior to age five, special education is typically provided in a pre-school setting. After age five, they occur in a public school setting or in specialized schools that serve individuals with more significant educational needs. It was discussed, however, that in some cases, schools resist providing those services because of budget limitations.

While there are many services available for autistic children, physicians and other advocates have also identified many gaps that can arise. There are certainly a number of clearly defined steps MSSNY can take, including advocating to assure health insurers are properly following the autism coverage mandate, and advocating along with the AMA to urge Congress to require self-insured plans to follow a similar law. However, there are potentially other solutions relating to the steps that can be taken to assure schools provide these needed services that will require advocacy by groups in addition to MSSNY, including particularly for those children with developmental and learning disabilities that may not meet the statutory definition of autism. However, greater clarity is needed to define these solutions, clarity that could come about if MSSNY would work collaboratively with other entities with similar advocacy interests. Therefore, the Committee recommended the MSSNY Council adopt a substitute resolution that incorporated these multiple steps:

RECOMMENDATION: That the MSSNY Council adopt the Following Substitute Resolution 60:

RESOLVED, that the Medical Society of the State of New York work with the New York Chapters of the American Academy of Pediatrics to:
1) advocate to assure that health insurers comply with the law that requires them to provide coverage for autism screening and treatment including for pervasive developmental disorders not otherwise specified;
2) advocate to assure health insurers and Medicaid take the steps necessary to include a sufficient number of physicians and other appropriate providers in their networks to provide such necessary screening and treatment;
3) work with the AMA and other medical societies to advocate for federal legislation to require self-insured plans to provide such coverage; and
4) work with similarly interested organizations to identify gaps in services and treatment for children believed to have autism or other developmental and/or learning disabilities that may not specifically meet the statutory definition of “autism spectrum disorder”, and to advocate for identified solutions including but not limited to insurance coverage for these children.