



The Court of Common Pleas of Philadelphia County in its Opinion and Order for Anthony Burke v. Independence Blue Cross held that insurance companies must provide Applied Behavioral Analysis for children under 21 even where (as is common) the policy of insurance purports to exclude the provision of services “in schools”. This case is significant for families of children with autism. The Court held that Act 62, codified at 40 P.S. §764h(A), which became effective on January 1, 2010, requires most private and Medical Assistance insurance companies to provide Applied Behavioral Analysis treatment where medically necessary for children with autism. In the Burke case, IBC contended that it was permitted under Act 62 to provide a general exclusion for services in schools, but the Court rejected this claim and found that the intent of Act 62 precluded such exclusions by insurance companies and relied upon the interpretation of the Pennsylvania Insurance Department that such exclusions were not intended by Act 62. This decision represents a major victory for children with autism and their families as it provides an important additional resource to secure critically necessary, research-based services.

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