



July 20, 2011

The Honorable Jerry Brown
Governor
State of California
Capitol Building
Sacramento, CA 95814

RE: Autism & the DMHC settlement agreements

Dear Governor Brown:

I write to express concern over the autism settlement agreements that the California Department of Managed Health Care (DMHC) has entered into with several health plans over the last 10 days. As set forth below, while the settlement agreements purport to require autism treatments to be covered, they effectively prevent this by insisting on licensed provider requirements that are not standard anywhere in the nation. Indeed, these requirements are also inconsistent with historical practice and programs within California and in conflict with the current policies of the California Department of Insurance.

By way of background, Autism Speaks is North America's largest autism science and advocacy organization. Part of our mission is to create access for families to the mainstream autism treatments prescribed by their doctors. In this vein, we have assisted with the enactment of legislation in 27 states requiring insurers to cover autism treatments, particularly Applied Behavior Analysis therapy.

Applied Behavior Analysis (ABA) therapy is the most commonly-prescribed, well-researched treatment available for autism. Its use for individuals with autism has been endorsed by the U.S. Surgeon General, the National Research Council, and the American Academy of Pediatrics.

Notwithstanding this, health plans have routinely denied coverage for ABA treatment, often on the basis that it is experimental or educational. More recently, health plans have begun to deny coverage because the treatment is typically delivered or supervised by a "non-licensed provider."

In California, as in most states, there is no state license for the professionals, known as behavior analysts, who design and supervise ABA therapy programs. Behavior analysts are, however, eligible for certification by the well-established and nationally recognized Behavior Analyst Certification Board (www.bacb.com). Professionals in the field of behavior analysis have been able to obtain certification



as Board Certified Behavior Analysts for about a dozen years now, and a majority of states recognize the credential in state statutes or regulations. In fact, California itself already recognizes Board Certified Behavior Analysts as professional providers who are authorized to independently supervise services through the Regional Centers.

The Behavior Analyst Certification Board (BACB) is itself accredited by the National Commission for Certifying Agencies. To qualify for a credential from the BACB, a behavior analyst must complete a significant amount of specified course work and supervised work experience, as well as pass a national examination.

In every state that has passed an autism-specific insurance mandate, Board Certified Behavior Analysts are permitted to design and supervise ABA therapy programs. In fact, in most states, ABA programs *must* be designed and supervised by a Board Certified Behavior Analyst. In no state must a Board Certified Behavior Analyst be supervised by someone else – except in California under the DMHC settlement agreements.

The most problematic term in the settlement agreements requires that ABA services be “supervised by a Licensed Provider” who meets five requirements. The five requirements may be acceptable, but the requirement of a Licensed Provider – when California, like most states, has no license for behavior analysts – is unacceptable. Indeed, it renders the promise of access to ABA therapy essentially meaningless.

It is true that a Board Certified Behavior Analyst could agree to be supervised by a random licensed health care provider, much as a urologist could agree to have all procedures supervised by a dentist. In either case, such supervision would be pointless and costly. The added layer of supervision would be pointless both because a Board Certified Behavior Analyst is by definition trained to supervise ABA therapy and is the professional most equipped to do so, and because, per our reading of California law, a licensed (rather than nationally certified) provider is not required.

There are currently more than 1200 behavior analysts in California who are certified by the Behavior Analyst Certification Board. It is unlikely that even a handful of these providers possess any kind of state license for another discipline. Until and unless California creates a mechanism to license behavior analysts, requiring a licensed provider to oversee ABA therapy will restrict access for individuals with autism to the point that therapy will be essentially unavailable.

Governor Brown, there are tens of thousands of individuals in California who have an autism spectrum disorder. The challenge of providing adequate and effective services to this growing population is sizeable, with far-reaching economic and societal implications, particularly if they fail to receive adequate treatments and services. Without the insurers and health plans playing their role,



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individuals with autism are simply not going to receive appropriate treatments, and California will be left to foot the bill in financial and human costs.

As 27 other states have discovered, there is a way for health plans and insurers to provide meaningful coverage for autism treatment while still maintaining their standards. We stand eager to assist your office in crafting such a solution for California. In the meantime, we respectfully request that you direct the DMHC not to enter into further settlement agreements that require licensure.

With kind regards,

A handwritten signature in black ink that reads "Lorri Shealy Unumb".

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