

# Commentary

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## IS IT TIME FOR AUTISM INSURANCE?



Autism is a developmental disorder that appears in the first three years of life and affects the brain's normal development of social and communication skills. The U.S. Centers for Disease Control and Prevention estimates that about one child in every 150 has autism.

# YES

BY JOHN AND JENIFFER MALONEY

Words will never fully describe the everyday adversity and heartbreak young families face when autism envelops a son or daughter. Like any other chronic condition, autism brings a cold realization to parents that their child's quality of life is in jeopardy if major improvements can't be made.

Scientific and medical literature present substantial evidence that early detection of autism and intervention are critical to the long-term functioning of people with autism spectrum disorders. Parents know this, and time is precious.

With hope and energy, mothers and fathers set out to get the best autism services available. For many, however, a cruel setback awaits. In Virginia, 95 percent of health insurance plans deny parents' claims because autism is excluded from coverage. The very things a pediatrician or developmental specialist recommends, such as Applied Behavioral Analysis, comprehensive occupational therapy, and intensive speech therapy, are not covered.

The message has been the same to autism parents for decades: Appeal all you want. You'll never change the decision on your own. The insurance company's lawyers are better than your letters. The treatment your child needs is available, but you will have to pay for it yourself, typically \$35,000 to \$50,000 a year.

This ongoing policy of discrimination by insurers has to end. The Virginia General Assembly's House Bill 1588 requires health plans to cover medically necessary treatments for autism, as prescribed by a doctor or clinical psychologist. There is an annual cap on benefits of \$36,000, and the bill carefully follows treatment guidelines now in place in nine other states — Illinois, Louisiana, Kentucky, South Carolina, Pennsylvania, Arizona, Florida, Indiana, and Texas. Offbeat alternative therapies are not covered.

In testimony before the governor's mandated

benefits commission, where HB 1588 passed in November, commissioners heard parents describe the financial hardship they endured to provide treatment for their children out of pocket.

One mother told the story of having to choose which of her two autistic children would receive treatment because she could not afford to help both. Many others talked about depleting retirement accounts and college savings plans, and taking on second mortgages to get services for their kids.

This hardship has been going on for a long time.

Eleven years ago, we sought benefits for our son Jack after he was diagnosed at UVA's Kluge Center and VCU's Virginia Treatment Center for Children. Our claims were repeatedly denied by our insurer, and the opportunity for intervention was slipping away. We spent more than \$150,000. We had to.

Low- and middle-income families can't afford this path. Steered to Medicaid programs, and overburdened clinics, these parents are met with waiting lists for services, untrained staff, and bureaucratic hurdles that make it practically impossible for both parents to work. A single parent of ten has to choose between working and getting help for a child.

The debate over HB 1588 will likely unfold as it has in other states, where health insurers and the chamber of commerce lobbyists are the oppo-

**In Virginia, 95 percent of health insurance plans deny parents' claims because autism is excluded from coverage.**

# NO

BY KEITH D. CHEATHAM

When legislators return to Richmond this month, they will face a pressing question — do we want more expensive health insurance coverage for fewer people, or do we want more affordable health insurance coverage for most people?

It's a fair question, and the answer will depend on how legislators respond to a recent recommendation of the state's Special Advisory Commission on Mandated Health Insurance Benefits to add another health insurance mandate to the growing list of ones we already have.

The advisory commission mandate recommended this time around is for coverage of educational services for "autism spectrum disorder," a complex developmental disability encompassing a group of disorders that cause problems with social interaction, communication, and behaviors.

Unfortunately, the advisory commission's recommendation, if accepted, won't make health insurance more affordable for many, and that's especially true for fully insured small-business owners and their employees. Larger, self-insured employers, such as the Commonwealth of Virginia, on the other hand, will escape the new mandate because they are exempt from the state requirements and don't have to provide the coverage un-

less the legislature specifically adds it. So far, efforts to add the benefit at least to the state's health plan have failed — largely due to the added costs during these difficult budgetary times.

The advisory commission's November vote was also interesting in that it came just two days before THE TIMES-DISPATCH reported what we already know: Small-business owners are struggling to provide quality health insurance to their employees, and more employees are being asked to pick up more of the costs.

The newspaper also published, on Dec. 18, another article outlining a family's recent legal battle with the Hanover County school system to provide appropriate services for their son, who suffers from this disorder. A review of articles across the state reveals this is not an isolated incident and that families are frustrated that their children are not receiving these services from the school systems. However, mandating that small-business owners cover educational services through their health insurance policies does not fix this problem.

The proposed mandate could add as much as \$4.88 per month for standard coverage, according to a Joint Legislative Audit and Review Commission (JLARC) report. That may not sound like a lot, but when applied across the employer group, it amounts to a significant cost increase

for employers. Taken alone, this one mandate might not break the bank, but as I testified before the vote, it is the cumulative cost of all the state mandates that must be considered, and they are substantial. Virginia now ranks third in the number of mandated benefits and providers.

The recommendation of the advisory commission is set on a collision course with another legislative commission — the state's Small Business Commission — that voted recently to recommend that the 2009 General Assembly refrain from piling on more mandates. The Small Business Commission went a step further and also agreed to take a few bricks off the backs of small-business owners by recommending the approval of more affordable policies that remove some of the mandates for small-business owners who haven't been able to afford health insurance coverage for their employees for some time.

The Council for Affordable Health Insurance periodically reports on trends in state-mandated benefits — and what it has to say is noteworthy. Without going into great detail, here's what the council had to say:

■ While mandated health insurance benefits make health insurance more comprehensive, they also make it more expensive;

■ Mandates can boost the cost of a policy beyond that of a house fire. Both can be catastrophic financially. Both should be insured risks. Families, who wouldn't think of not insuring their homes, should insist that their health plans cover autism. The cost should be small. Autism advocates expect a premium increase of \$2 per policy per month in Virginia, at the most. In Pennsylvania, the governor's estimate was \$1 per policy per month.

Opponents of autism insurance will also argue that behavioral therapy, the keystone of autism care, isn't medically necessary and that it is experimental; that unlicensed practitioners will sprout up to bilk the system; and that no agency is in place to audit the quality of care. Some legislators want to pass the whole problem to the schools.

There is nothing experimental about Applied Behavioral Analysis (ABA), accepted now as the most effective treatment for autism, which is a complex and daunting brain disorder. From the surgeon general of the United States to the American Academy of Pediatrics, ABA is regarded as the best thing you can do for kids with autism. Behavior modification seeks to limit tantrums and outbursts, and to protect children, parents, and teachers from serious, repetitive injury —

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FAILED REFORM EFFORT

## Payday Lenders Use SCC

*"The debtor often belongs to a class which needs protection, and his needs are sometimes so urgent as to extort from him any conditions which the creditor seeks to impose. . . . The cupidity of lenders, and the willingness of borrowers to concede whatever may be demanded or to promise whatever may be extracted in order to obtain temporary relief from financial embarrassment, as would naturally be expected, have resulted in a great variety of devices to evade the usury laws."*

THE VIRGINIA SUPREME COURT IN 1941.

BY MICHAEL H. LANE AND WARD R. SCULL III

The financial crisis that has spread across America and the world has confirmed the wisdom of the Virginia Supreme Court in 1941, that unfettered free markets with lax oversight, inadequate regulation, and lack of legislative constraints will result in widespread abuses by lenders and jeopardize the financial system.

Against the wishes of the public and the formal requests from more than 65 local governments representing about 60 percent of the population of Virginia, the General Assembly decided against imposing a 36 percent interest-rate cap on payday lending in the 2008 session.

Instead, the legislators painstakingly balanced the payday lending industry's input, compromised, and decided to impose limited restrictions and no cap on payday loans, believing that the payday industry's assertions that it would operate under the reforms the legislators had prescribed.

Unfortunately, what has proven true nationally and internationally has proven true in Virginia as well: Failure to impose restrictions and enforce and regulate the financial industry can result in catastrophe from Wall Street to Main Street. The fact that the payday lending industry is the least reputable of financial actors provides ample warning that clear and concise limits and strict oversight are the only ways to avoid disaster for those who use their products.

Despite the admonitions of the General Assembly, the payday lenders have not only failed to reform in any way, but have brazenly seized upon the regulatory leeway it granted. They have become even more predatory and added more weapons to their arsenal against their customers, the most financially vulnerable of our fellow citizens. This is more than a slap in the face of the legislators who protected them in 2008; it is an insult and declaration that they will take every action conceivable to continue their aggressive and reprehensible lending practices.

For example, in September payday lenders received permission from the State Corporation Commission to offer open-end loans at their payday loan locations. Open-end loans are loans with no set time of repayment. The borrower is required only to

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