Approved: March 18, 2010
Date

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on March 10, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:
Lorri Unumb, Autism Speaks
Sky Westerlund, National Association of Social Workers
Brad Smoot, Blue Cross & Blue Shield
Marlee Carpenter, Kansas Association of Health Plans

Others attending:
See attached list.

Lorri Unumb, Autism Speaks (Attachment 1)
Sky Westerlund, National Association of Social Workers (Attachment 2)
Brad Smoot, Blue Cross & Blue Shield (Attachment 3)
Marlee Carpenter, Kansas Association of Health Plans (Attachment 4)

The Chair called the meeting to order.

Hearing on

SB 554 - Insurance; coverage for autism

Melissa Calderwood gave an overview of SB 554. Ms. Calderwood stated that this bill would require the State Employee Health Plan (SEHP) to add coverage for autism spectrum disorder (ASD) beginning January 1, 2011. Coverage would be limited from birth to age seven to $36,000 per member per year, and to $27,000 per member per year for members from age seven to age nineteen. Coverage would be subject to plan deductibles, co-pays and coinsurance, but must include any service ordered by a physician or psychologist for treatments recognized by peer reviewed literature as providing a medical benefit to someone with autism spectrum, disorder. She said the bill would require the Kansas Health Policy Authority (KHPA) to provide a report to the Legislature on or before March 1, 2012, on the impact that the mandated benefit for autism spectrum disorder has had on the (SEHP) She said Kansas Health Policy Authority estimates an increase in SEHP expenditures of $4,207,815 for fiscal year 2011, $4,607,557 for fiscal year 2012, and $5,045,275 for fiscal year 2013. She said actual costs could vary significantly from the estimate due to factors such as improvements in the diagnosis of ASD; evolution of accepted treatments and technology; treatment plan breadth and depth; possible provider price increases in response to coverage availability; and actual prevalence that is different from the population-based estimate.

Lorri Unumb, Senior Policy Analyst and Counsel for Autism Speaks, testified in support of SB 554. Ms. Unumb stated that autism is a medical condition, diagnosed by a medical doctor with treatment prescribed by a medical doctor and is brought on through no fault of the family. She said although there is no known cure for autism, it can be treated so that the symptoms are not disabling. She said studies show that if Applied Behavior Analysis is administered intensively and by properly trained therapists, approximately half of the treated kids will overcome their autistic characteristics to such an extent that they can enter first grade indistinguishable from their peers. She added that the other half make significant gains, too, such that they need less support for the rest of their lives. Ms. Unumb stated that she has worked on the legislation in South

Carolina that started the recent movement toward coverage and has seen it successfully implemented. She stated further that in states where this law has passed, the overall impact on the economy has been positive, particularly in terms of job creation. She said thousands of people have been trained and are now working full time as therapists with children with autism. (Attachment 1)

Sky Westerlund, Executive Director, Kansas Chapter, National Association of Social Workers, testified as neutral on SB 554. She stated that this bill identifies only physicians and psychologists as the licensed professionals who would have a role in the diagnosis and treatment of the autistic spectrum disorders. She said a licensed specialist clinical social worker may also diagnose and treat persons with a mental disorder in independent practice. She said this statutory authority has been in place for social work since 1994. She said if this legislation advances and it specifically identifies the professionals who may diagnose autistic spectrum disorders, the Kansas National Association of Social Workers asks that social workers be included as well. (Attachment 2)

Brad Smoot, Legislative Counsel, Blue Cross Blue Shield of Kansas and Kansas City testified as neutral on SB 554. Mr. Smoot said BCBS normally opposes health insurance mandates, as such increases in benefits tend to drive up costs and premiums for Kansas businesses, workers and their families. He said, however, SB 554 takes a logical and responsible approach by applying the autism mandate on the state plan before imposing it on the private sector. He added that BCBS routinely supports the use of the "test track" methodology in dealing with proposed mandates and BCBS applauds the supporters of this bill for following the law. Mr. Smoot added his recommendation that the bill on page 2, lines 2 through 8 should be amended to read, "(6) Reimbursement shall only be allowed for services provided by a Kansas provider licensed, trained and qualified to provide such services." In conclusion, Mr. Smoot said Provisos are the natural method for directing state agency action as opposed to the actions of the public at large. He said the "test track" process would be triggered by a proviso and the appropriate funding of any benefit to be tested. Mr. Smoot attached a draft proviso to his testimony. (Attachment 3)

Marlee Carpenter, Executive Director, Kansas Association of Health Plans, testified in opposition to SB 554. Ms. Carpenter stated that proponents of the autism mandate should be required to follow state law. She stated that state law requires that a cost benefit analysis be conducted and any proposed mandate be run on a test track through the state employee health plan. She said in addition, Kansas Association of Health Plans believes that SB 554 will broaden the definition of insurance by requiring reimbursement of educational programs and will increase the costs of health insurance so that it is out of reach for many Kansans. She added that there are also concerns with this bill because there are no credentialing requirements of practitioners. She said allowing reimbursement of ABA therapy without proper credentialing requirements will allow for abuse of the system. Concluding, she stated that Kansas Association of Health Plans requests the committee consider the impact this bill will have on the health insurance market and ability to offer cost effective insurance products to Kansas Citizens. (Attachment 4)
The Chair closed the hearing on SB 554.

Senator Steineger moved approval of the Minutes of March 4 and March 9. Senator Brownlee seconded. Motion passed.

The meeting was adjourned at 10:30 a.m.

SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST

DATE: 3-10-10

NAME	REPRESENTING
Alex Kotoyantz	P.I.A.
Barbara Hollingsworth	Cap-Journal
Michelle Lancaster	WU Student
Kari Presley	Kearney & Associates
Jake Hein	Hein Law Firm
MICHELE WATLEY	

AUTISM SPEAKS
It's time to listen.

Lorri Unumb
Senior Policy Analyst and Counsel

Parent of an 8-year-old son with autism
Attorney: Senior Litigation Counsel with United States Department of Justice
Law Professor at George Washington University Law School

Autism is a medical condition, brought on through no fault of family. Diagnosed by a medical doctor. Treatment prescribed by medical doctor.

"Autism" is actually an imprecise term: some people use it interchangeably with "autism spectrum disorder" and others use it to mean one of the ASDs. In fact, there are 3 distinct diagnoses within the family of autism spectrum disorders. (See chart.) The umbrella diagnostic category is called Pervasive Developmental Disorder. Within that umbrella category are 3 conditions known as ASDs: Autistic Disorder (or "classic autism"), Asperger's Syndrome, and PDD-NOS. Across the spectrum, people vary greatly in terms of type and severity of deficits. Interestingly, 4 times more common in boys than in girls.

Although there is no known cure for autism, it can be treated so that the symptoms are not disabling. A non-verbal child can gain the ability to communicate; a non-social child can gain interaction skills. So, while they're not cured, they can overcome the disabling aspects of the condition.

The most commonly-prescribed treatment protocol involves a therapy called "Applied Behavior Analysis," or ABA. This is a therapy that has been used for many decades to treat autism, and yet the insurance industry continues to deny coverage for ABA therapy, often on the basis that it is "experimental." That self-serving conclusion is simply not supported by the science, and the Surgeon General, the National Research Council, and the AAP all have endorsed ABA. (Show sample coverage positions, which show blanket exclusion of ABA therapy.)

Studies show that, if ABA therapy is administered intensively and by properly-trained therapists, approximately half of the treated kids will "overcome" their autistic characteristics to such an extent that they can enter 1st grade indistinguishable from their peers. And the other half make significant gains, too, such that they need less support for the rest of their lives. (Lovaas, UCLA 1987)

As I mentioned, though, ABA must be administered intensively, often 40 hours/week. And this, of course, makes it expensive. My own son's autism is very severe, and his therapy has cost us, out-of-pocket $75,000 per year. Most kids don't require anything close to this much therapy, but the few, truly severe kids do. Fortunately, my husband and I are blessed with good jobs, and we were able to sacrifice to afford the therapy for our son. But how many Kansas families do you know that have that kind of money to sacrifice? Or even half that much? Most don't, and most of those children are going untreated. It's sad that in the USA, we know of a treatment that works, and yet we have kids who can't get the treatment they need because their parents aren't wealthy. And it's not only sad; it's unfair, given that these families are paying premiums every month to cover their kids. These are families who are doing the right thing, by buying insurance for their families to insure against exactly this kind of unforeseen & unprovoked medical disaster.

FI & I Committee
3-10-10

Attachment 1

A 2006 study from the Harvard School of Public Health found that if a child with autism is not properly treated, the societal cost for that one child over their lifetime is $3.2 million. (Ganz 2006). In addition, a 1998 study for the state of Pennsylvania projected an actual cost savings to the state of over a million dollars per child. (Jacobson, Green 1998). Do the math: 1 in 110 Kansas kids diagnosed; only the wealthy few get treatment; and multiply each remaining child by over a million dollars. That's how much Kansas taxpayers will shell out if these kids don't get treatment. Lest you think, "We'll just handle these people in our budget the same way we've always handled it, think again. Just 15 years ago, the prevalence rate of autism was 1 per 500. Today, it is 1 in 110. Scientists don't know the reason for the increase, but we all understand the ramifications. There's a huge autism tsunami coming, and it is going to cost the state an extraordinary amount of money in special education and adult care if the current generation of kids does not get the treatment they need. Without private insurance playing its part, the treatment is simply not going to happen.

Faced with this reality, other states – 15, to be specific – now require insurers to play their part. (See chart). 14 states have passed this legislation, or something very similar, in the past 3 years:

South Carolina (2007)	Arizona (2008)	New Mexico (2009)
Texas (2007)	Louisiana (2008)	Montana (2009)
	Pennsylvania (2008)	Nevada (2009)
	Florida (2008)	Colorado (2009)
	Illinois (2008)	Connecticut (2009)
		New Jersey (2009)
		Wisconsin (2009)

Indiana passed a similar bill 9 years ago – in 2001 – the same year the Attorney General in Minnesota entered into a settlement agreement with that state's major insurer (BCBS) to require coverage for autism, including coverage of Applied Behavior Analysis therapy. And many other states are considering similar legislation right now.

One of the reasons I'm here today is because I worked on the legislation in South Carolina that started the recent movement toward coverage, and I've seen it successfully implemented. Children who have never before been able to receive treatment are making remarkable progress. Providers have joined adequate networks of participating providers and negotiated satisfactory reimbursement rates. And I can tell you, despite the doomsday predictions from opponents that we've heard in state after state, none of our insurers have left the state and no businesses have thrown in the towel because of this benefit. Indeed, the impact on premiums has been negligible. In Indiana, the DOI called the financial impact "unmeasurable" even years after the coverage became effective.

The insurance industry's own association – the Council for Affordable Health Insurance – estimates that mandated autism benefits increase premium costs by LESS than 1%. (See chart)

Autism Speaks contracted with independent actuarial firm, Oliver Wyman, to conduct a cost analysis specifically for Kansas. The independent actuary also arrived at less than 1%. (See attachment.) 0.73%. About $2 per month.

Some opponents say this bill will increase premiums 2-4%. Before you accept that, I ask you to hold our opponent's feet to the fire on this prediction of a devastating premium increase. Have they

shown you the math they used to come up with a 2-4% prediction? Every actuarial estimate for which we have contracted on autism legislation has produced a projection of less than 1%, and they are all available online at www.autismvotes.org. But better than projections, by either our side or the opponents, the insurance industry could show you their actual claims data. Insurance companies in Indiana and Minnesota have been tracking this data for years, and they know exactly how much it costs to fully cover autism. BCBS of Minnesota reports an 83 cents per member per month premium increase resulting from autism-related claims.

Further, in states where this law has passed, the overall impact on the economy has been positive, particularly in terms of job creation. Thousands of people have been trained and are now working full-time as therapists with children with autism. That's an important factor in today's economy. And, also, you must consider that the cost of this measure won't fully hit for 5 years or so. In terms of your state budget, this is largely a post-recession cost. For example, in South Carolina, where the law passed in June 2007 and became effective in July 2008, the state employees' health plan has reported costs of covering autism for the first two quarters of 2009: $402,981 (350,000 members in state employee health plan (210,000 employees))

So even from a purely fiscal perspective – setting aside the moral issues and the value to your families – this legislation makes sense. The high cost option is doing nothing.

40 Board Certified, including 10 at doctoral level

SUM UP

I was a law professor for 7 years, and I spent much of that time thinking about this issue and how best to resolve it. Medicaid? Education? May all have role to play and they're trying. But it is insurance industry that is most not doing its part. After years of examining the issue, I've yet to come up with a better solution than what is being proposed here.

Finally, I would ask you to pass this bill because it is simply the right thing to do. I hear so many people complain about paying taxes and griping about how high taxes are. It is my dream for my son that someday he may get to pay taxes. And I bet many parents in this room share that dream.

Thank you for taking the first step toward giving Kansas children the treatment that kids in other states are now getting by voting this bill out of committee.

FAQs

Question #1 Don't the schools provide this therapy? Or shouldn't the schools provide it?

Question #2 How about Medicaid?

Question #3: Don't some insurers already cover autism? Don't mental health parity laws require coverage?

Question #4: I don't believe in telling insurance companies what they must cover.

Question #5: Why should we single out this one disease for coverage?

Question #6: This law would not be very effective because only a small percentage of Kansas residents would be subject to its terms

Question #7: Because there's no license for behavior analysts, we'd be forced to cover just anyone.

Question #8: Does this bill take away the insurers' ability to use cost-control mechanisms?

Question #1 Don't the schools provide this therapy? Or shouldn't the schools provide it?

Autism is a medical condition that is diagnosed by a medical doctor, not by a school principal. It is not a learning disability.

Federal law – the Individuals with Disabilities Education Act (IDEA) – does not charge the schools with ameliorating a child's medical condition; it charges the schools with providing the child a meaningful education.

Under IDEA, schools must accommodate disabilities in the course of educating children, but schools do not, cannot, and should not be tasked with treating the disabling condition.

For example, schools accommodate a child with diabetes by allowing the child to receive insulin injections at school, so that the child can function and thus learn. But, just as society does not rely on schools to pay for the insulin, nor should we put the burden on schools to pay for the treatment a child with autism needs in order to function in a school setting.

Further, to be effective, ABA therapy must be administered on a one-on-one basis. Do the Kansas schools have such plentiful resources that they can employ a trained one-on-one therapist for each child with autism and hire a Board Certified Behavior Analyst to supervise in each school or at least each district?

And finally on the "educational" issue, even to the extent that some schools attempt to employ ABA principles in educating children with autism, this does not magically render ABA "educational and thus exempt from insurance coverage," just as the schools' provision of speech therapy does not render speech therapy exempt from insurance coverage. Schools that use ABA work only on academic goals for a child; they do not work on other skills that children with autism acquire through

intensive ABA therapy, such as potty-training, dressing, use of utensils, toothbrushing, bathing, and other daily living skills that typical children acquire naturally through imitation.

Calling ABA "educational" and thus not subject to insurance coverage is just another ploy to get out of paying for it. First it wasn't covered because it was experimental; now it's not covered because it's educational. And yet, TriCare, the Department of Defense health insurance plan for military, has been covering Applied Behavior Analysis for years.

Question #2 Well, how about Medicaid?

Some states have attempted to handle this issue by creating autism-specific Medicaid waivers that cover ABA. Two problems with this approach, one practical and one philosophical.

1- Not enough funding. State must fund, and even with federal match, no state has been able to pour enough money into a waiver program to serve all of the kids with autism. Very long waiting lists, during which opportunity for maximum "recovery" disappears.

2- Socialized medicine

If you want to do both, that's great, and that kind of public/private partnership is probably the correct way to handle this crisis.

Question #3: Don't some insurers already cover autism? Don't mental health parity laws require coverage?

Even to the extent that insurance policies currently cover autism, they do not cover the treatment that is most effective and most commonly-prescribed for autism. Perhaps there is no blanket exclusion in the policy for autism, but there are exclusions for behavioral therapy, for habilitative treatment, or any number of other things that make the treatment unavailable. Some insurers have specific written policy statements stating that ABA will not be covered. (See Cigna & BCBS coverage positions).

Cancer/chemo analogy.

Question #4: I don't believe in telling insurance companies what they must cover.

Private contract between private parties.

I felt same way 5 years ago. But I've learned a lot in those 5 years. I've learned that the theories I studied in law school about market failure due to unequal bargaining power are true and real. This is a classic case of market failure. The industry has proven that it is not going to step up to the plate and do the right thing, thereby forcing your hand. And you know, granted they are contracts between private parties, but we as a society have already determined that we believe in some degree of interference in these particular contracts. If we didn't, we wouldn't need a DOI. The state regulates insurance affairs, and, because the insurance industry refuses to update its coverage positions to align with current science, the state should step in here.

Question #5: Why should we single out this one disease for coverage?

What other disease do you know of that insurance purports to cover but doesn't cover the single most effective, accepted, and commonly prescribed treatment for? Name another disease for which

we know of a treatment that undeniably works and that is evidence-based, but insurance won't cover that particular treatment.

Some insurers claim that the autism community is seeking special treatment by asking to have a particular treatment covered. They say we're seeking special treatment because ABA is not covered for any other diagnoses. Actually, we are seeking equal treatment. All we are asking is that insurance cover the standard treatment protocol for this condition. Would we tell breast cancer patients they were seeking special treatment if they asked to have masectomies covered? Would the insurance industry refuse to cover that particular treatment because they don't cover it for any other disease? Of course not. Equal treatment means covering for each disease the standard treatment protocol for that disease.

Question #6:

This law would not be very effective because only a small percentage of Kansas residents would be subject to its terms

The fact that many Kansas residents are governed by ERISA plans or other plans that are subject to federal, not state, regulation is not a reason to not help the residents you can reach. If you saw a sinking boat with 10 people on board on the verge on drowning, and you had 3 life jackets, would you toss the 3 life jackets, or would you hold onto them because you didn't have 10?

Effect on ERISA plans; many self-insured employers follow suit.

Further, if some coverage exists within the state, parents of autistic children can change jobs to find coverage. If none exists, they cannot.

Question #7: Why aren't other therapies, such as Floortime, included?

This bill is written in such a way as to encompass evidence-based treatment. It is not meant to favor one brand over another, but at present, Applied Behavior Analysis (ABA) is the only treatment of its kind that is empirically validated. We do not question the judgment of parents who use or try other types of treatments; I've tried others with my own son. But we didn't think it was fair to ask insurance to cover treatments which are not yet validated with peer-reviewed research.

As to Floortime specifically (also known as DIR), we simply defer to the report of the American Academy of Pediatrics, which states:

"Published evidence of the efficacy of the DIR model is limited to an unblinded review of case records (with significant methodologic flaws, including inadequate documentation of the intervention, comparison to a suboptimal control group, and lack of documentation of treatment integrity and how outcomes were assessed by informal procedures) and a descriptive follow-up study of a small subset (8%) of the original group of patients."

Question #8: Because there's no license for behavior analysts, we'd be forced to cover just anyone.

There is a well-established, national certification for behavior analysts that has already been accepted by states, by the military insurance (TRICARE), and by insurers who operate in states where this law has been passed. In those states, insurers have been able to limit payments only to board-certified

providers (or equivalent, in some states), and the lower-level therapists who lack certification are paid through the board-certified provider. The requirements for board certification are extremely stringent and there are continuing education requirements. Many insurers have already examined these requirements and satisfied themselves that it is an appropriate credential for payment. (Show BCBS implementation documents from South Carolina; see www.bacb.com).

Question #9: Does this bill take away the insurers' ability to use cost-control mechanisms? No. The bill neither indicates that insurers may not use their normal cost-control measures nor is it the intent of the autism community to remove their ability to do so. We are not asking for special treatment; we are asking for equal treatment. We are asking to be treated equally in that insurance should cover the standard, well-accepted treatment for autism, just as it covers standard, accepted treatments for other diseases. But we're not asking to get out of deductibles, copayments, or even other typical cost-control mechanisms like coordination of benefits, restrictions on family members providing service, or reviews for medical necessity. (See treatment review clause).

NASW KANSAS CHAPTER
National Association of Social Workers

...the power of social work

March 10, 2010

Senate Financial Institutions and Insurance
SB 554 concerning insurance; coverage for autism spectrum disorder

Good morning. I am Sky Westerlund, the Executive Director of the Kansas Chapter, National Association of Social Workers. I appreciate the opportunity to speak with you today about SB 554.

SB 554 directly identifies only physicians and psychologists as the licensed professionals who would have a role in the diagnosis and treatment of the autistic spectrum disorders. A licensed specialist clinical social worker (LSCSW) may also diagnose and treat persons with a mental disorder in independent practice. This statutory authority has been in place for social work since 1994. If this legislation advances and it specifically identifies the professionals who may diagnose autistic spectrum disorders, KNASW asks that social workers be included as well.

Mental disorders are diagnosed using the Diagnostic Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association. The DSM is the classification document for mental disorders. Classification originated with the need for statistical information about the population. In the 1840's census, for example, there was one category of mental condition. By the 1880's census, there were seven different categories. Today, there are literally hundreds of categories and specific diagnosis' of mental disorders. The purpose of the DSM is to provide a helpful guide to clinicians in evaluating and determining if an individual has a mental disorder.

The psychiatrists, physicians, psychologists, and clinical social workers are the clinicians who have the professional foundation of their licensure and the statutory authority to diagnose and treat a person with a mental disorder using the DSM. New legislation must not exclude anyone from doing what they are already statutorily permitted to do.

If this legislation advances, KNASW asks that social workers are included alongside the physicians and the psychologists.

FI&I Committee
3-10-10
Attachment 2

Jayhawk Towers, 700 SW Jackson Street, Suite 801, Topeka, KS 66603-3740
(785) 354-4804 • FAX: (785) 354-1456 • sky@knasw.com • www.knasw.com

BRAD SMOOT
ATTORNEY AT LAW

800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)
bsmoot@nomb.com

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206

STATEMENT OF BRAD SMOOT
LEGISLATIVE COUNSEL
BLUE CROSS BLUE SHIELD OF KANSAS AND KANSAS CITY
SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE
REGARDING 2010 SENATE BILL 554
March 10, 2010

Madam Chair and Members:

On behalf of Blue Cross Blue Shield of Kansas and Blue Cross Blue Shield of Kansas City, thank you for this opportunity to comment on 2010 Senate Bill 554. BCBSKS is a mutual insurance company, owned by its policyholders, which provides a variety of health insurance policies to nearly 900,000 of your fellow Kansans in 103 Kansas counties. BCBSKC is a nonprofit hospital and medical service corporation providing coverage to approximately 300,000 Kansans in Johnson and Wyandotte Counties in Kansas and the western counties of Missouri.

As you know, we normally oppose health insurance mandates as such increases in benefits tend to drive up costs and corresponding premiums for Kansas businesses, workers and their families. Each new service to be provided and each new provider to be paid stretch the already strained health care dollar. Since the Legislature never repeals a mandate and the public rarely reduces utilization and provider prices rarely decline, insurers, including non profits and mutual carriers, are left with no alternative but to increase premiums – a steady climb we have all witnessed over the last few decades. We believe that adding ABA services for autistic children will add additional cost to the health care system and, in the case of SB 554, to the state budget and the taxpayers from whom all funds are derived. It will also add costs to those municipal and school district groups that have elected to join the state plan.

However, SB 554 takes a logical and responsible approach to the issue by applying the autism mandate on the state plan before imposing it on the private sector. We routinely support the use of the "test track" methodology in dealing with proposed mandates and we applaud the supporters of this bill for following the law. See K.S.A. 40-2249a.

We would suggest that you amend the bill on page 2, lines 2 through 8. As currently written, New Section 1(a)(6) repeats the language of bill regarding the authority of physicians and psychologists to order ABA treatments. Instead, we suggest that the section should limit which providers may deliver such ABA treatments. Hence, we suggest that subsection (6) read as follows:

> "(6) Reimbursement shall only be allowed for services provided by a Kansas provider licensed, trained and qualified to provide such services."

FI&I Committee
3-10-10
Attachment 3

We think Kansans have a right to expect that those delivering and being paid by the state of Kansas or any insurer for the providing of health care or learning disability services are qualified and licensed to treat their children.

Finally, we would encourage the Committee not to pass SB 554 but rather instruct the health policy authority to add the benefits described in the bill to the state employees health care plan and provide the "test track" report called for in the bill. This can be done by proviso. After all, the bill itself is only instructing a state agency to take a particular action and make the necessary report. In either case, the proviso and the bill will likely have a fiscal note which will require the legislature to fund the enhanced autism benefits through the appropriations process anyway. If you pass the bill and then the funding separately, you will have to take action on this matter twice whereas a simple proviso will accomplish the same thing in one course of action. Provisos are the natural method for directing state agency action (as opposed to the actions of the public at large) and we have always envisioned that the "test track" process would be triggered by a proviso and the appropriate funding of any benefit to be tested. I have attached a draft proviso patterned after SB 554 to my testimony for the Committee's consideration.

Thank you for consideration of our views.

Attachment

Draft Autism Proviso based on SB 554

Provided that the state employees health care commission shall provide in the next employee health insurance benefit plan for the coverage of autism services commencing January 1, 2011. Such benefit design shall include: Benefits for persons diagnosed with autism spectrum disorders up to $36,000 per year for persons under the age of 7; benefits for persons age 7 until age 19 shall be limited to $27,000 per year; all benefits shall be prescribed or ordered by a physician licensed to practice medicine and surgery in Kansas or a psychologist licensed by the behavioral services regulatory board; all services provided pursuant to such physician prescription or order shall be for services recognized by the peer reviewed literature as providing medical benefit to the patient based on his or her particular disorder; reimbursement shall only be allowed for services provided pursuant to such prescription or order when services are provided by a Kansas provider who is appropriately trained, qualified and licensed to provide such services by the applicable Kansas licensing authority; carriers administering claims for autism services shall have the right and obligation to review utilization of such services at any time and deny claims based on medical necessity or if the covered person has reached maximum medical improvement; no reimbursement shall be allowed for parent training or parental respite care; benefits shall be subject to the same co pays, deductibles and dollar limits as benefits for physical illness; and such other utilization or benefit limits as the state employees health care commission may determine. The cost of such autism coverage shall be estimated by the Kansas Health Policy Authority prior to the passage of this appropriation bill and such amount shall be added to the state employees health care commission budget. In accordance with K.S.A. 40-2249a, the state employees health care plan shall provide a report to the President of the Senate and the Speaker of the House after one full year of coverage for autism services on the impact of this coverage, including data on the utilization and costs of providing such benefits and whether such coverage should be continued under the state plan or if additional data is required. Such report shall be due on or before March 1, 2012.

Kansas Association of Health Plans

815 SW Topeka Boulevard, Suite 2C
Topeka, Kansas 66612

(785) 213-0185
marlee@brightcarpenter.com

March 10, 2010

SB 554
Before the Senate Financial Institution and Insurance Committee
Marlee Carpenter, Executive Director

Chairman Teichman and members of the Committee;

The Kansas Association of Health Plans (KAHP) is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and other entities that are associated with managed care. KAHP members serve the majority of Kansans enrolled in private health insurance. KAHP members also serve the Kansans enrolled in HealthWave and Medicaid managed care. The KAHP is here today to oppose SB 554, the autism mandate.

Proponents of the autism mandate should be required to follow state law. State law requires that a cost benefit analysis be conducted and any proposed mandate be run on a test track through the state employee health plan. There are many conflicting numbers in this debate. The business community has their cost estimate of this mandate, the proponents have their cost estimate of this mandate and the state has their cost estimate of this mandate. Requiring that this bill be test tracked on the state employee health plan will provide real numbers that will indicate the true cost of this mandate. I have attached the pertinent statutory references to my testimony.

In addition, KAHP believes that SB 554 will broaden the definition of insurance by requiring reimbursement of educational programs and will increase the costs of health insurance so that it is out of reach for many Kansans. Kansas health insurance carriers already provide coverage for "medically" necessary services to children diagnosed with an autism spectrum disorder. These services include initial screenings for autism, occupational therapy, speech therapy, physical therapy, and coverage for common medical issues suffered by individuals with autism. In addition, state and federal mental health parity laws already require that these conditions be covered the same as any other medical condition.

KAHP also has concerns with SB 554, because there are no credentialing requirements of practitioners. Allowing reimbursement of ABA therapy without proper credentialing requirements will allow for abuse of the system. If a third party, such as an insurance company, take responsibility for paying for these services, assurances need to be in place so

FI&I Committee
3-10-10
Attachment 4

that children are receiving the best treatment for the money and the dollars are being spent in an efficient manner.

If enacted, KAHP would request that the enactment date of the legislation be 12-18 months out so that companies can begin building their provider networks. Provider networks are the key to any health plan and to build a new network of providers that currently does not exist takes time.

Finally, during the 2009/2010 Legislative Session, more than 15 health insurance mandates have been proposed. Every health insurance mandate is brought to the legislature with good intentions but if all were passed, the cost of health insurance would skyrocket. How do you choose which should be enacted and which should not?

The KAHP requests that as you review SB 554 that you consider the impact it will have on the health insurance market and ability to offer cost effective insurance products to Kansas citizens.

Thank you for your time and I will be happy to answer any questions.

Kansas Legislature

40-2248

Chapter 40.--INSURANCE
Article 22.--UNIFORM POLICY PROVISIONS

40-2248. Mandated health benefits; impact report to be submitted prior to legislative consideration. Prior to the legislature's consideration of any bill that mandates health insurance coverage for specific health services, specific diseases, or for certain providers of health care services as part of individual, group or blanket health insurance policies, the person or organization which seeks sponsorship of such proposal shall submit to the legislative committees to which the proposal is assigned an impact report that assesses both the social and financial effects of the proposed mandated coverage. For purposes of this act, mandated health insurance coverage shall include mandated optional benefits. It shall be the duty of the commissioner of insurance to cooperate with, assist and provide information to any person or organization required to submit an impact report under the provisions of this act.

History: L. 1990, ch. 162, § 1; July 1.

Kansas Legislature

40-2249

Chapter 40.--INSURANCE
Article 22.--UNIFORM POLICY PROVISIONS

40-2249. Same; contents. The report required under K.S.A. 40-2248 for assessing the impact of a proposed mandate of health coverage shall include at the minimum and to the extent that information is available, the following:

(a) The social impact, including:

(1) The extent to which the treatment or service is generally utilized by a significant portion of the population;

(2) the extent to which such insurance coverage is already generally available;

(3) if coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment;

(4) if the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;

(5) the level of public demand for the treatment or service;

(6) the level of public demand for individual or group insurance coverage of the treatment or service;

(7) the level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts; and

(8) the impact of indirect costs which are costs other than premiums and administrative costs, on the question of the costs and benefits of coverage.

(b) The financial impact, including:

(1) The extent to which insurance coverage of the kind proposed would increase or decrease the cost of the treatment or service;

(2) the extent to which the proposed coverage might increase the use of the treatment or service;

(3) the extent to which the mandated treatment or service might serve as an alternative for more expensive treatment or service;

(4) the extent to which insurance coverage of the health care service or provider can be reasonably expected to increase or decrease the insurance premium and administrative expenses of policyholders; and

(5) the impact of this coverage on the total cost of health care.

History: L. 1990, ch. 162, § 2; July 1.