

**REPORT OF THE  
SPECIAL ADVISORY COMMISSION ON  
MANDATED HEALTH INSURANCE BENEFITS ON**

**Section 38.2-3409 of  
the Code of Virginia:  
Mandated Coverage of  
Dependent Children**

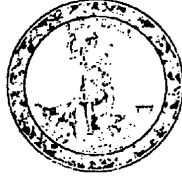
**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 18**

**COMMONWEALTH OF VIRGINIA  
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1992**

COMMONWEALTH OF VIRGINIA



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December 30, 1991

To: The Honorable L. Douglas Wilder  
Governor of Virginia  
and  
The General Assembly of Virginia

The report contained herein has been prepared pursuant to Sections 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits to assess the social and financial impact and the medical efficacy of Section 38.2-3409 of the Code of Virginia regarding the mandated coverage of dependent children.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clarence A. Holland".

Clarence A. Holland, Chairman  
Special Advisory Commission on  
Mandated Health Insurance Benefits

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## INTRODUCTION

The Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) conducted a review of §38.2-3409 of the Code of Virginia in accordance with the schedule of evaluations of existing mandated benefits and providers as established by the standing committees of the General Assembly having jurisdiction over health insurance matters pursuant to §§9-298 and 9-299.

The Advisory Commission, as part of its review, held a public hearing to receive comments from all interested parties on §38.2-3409 during a meeting held on September 16, 1991 at 10:30 a.m. in Senate Room A of the General Assembly Building in Richmond, Virginia. No interested parties offered comments to the Advisory Commission at the public hearing. No written comments were submitted to the Advisory Commission regarding §38.2-3409.

### SUMMARY OF §38.2-3409

Section 38.2-3409 was enacted in 1968. It requires any individual or group policy or subscription contract delivered or issued for delivery in Virginia to continue coverage of a dependent child beyond the age it would normally terminate coverage if:

- (1) the dependent child is unable to self-sustain employment because of mental retardation or physical handicap; and
- (2) the child chiefly depends on the policyholder for support and maintenance.

The insured must furnish proof of the incapacity and dependency within 31 days of the child reaching the specified age. The insurer can require subsequent proof but no more often than once a year beginning 2 years after reaching the age cutoff.

An additional premium may be charged to continue coverage beyond the specified age. The insurer can base the charge on the class of risk that applies to each individual child.

### DEPENDENT CHILDREN MANDATES IN OTHER STATES

Coverage for handicapped, dependent children is mandated in thirty-four(34) states including Virginia. None of the existing statutes are "must offer" mandates. These mandates were enacted as follows:

1950's	1
1960's	12
1970's	17
1980's	4
	<hr style="width: 50px; margin-left: auto; margin-right: 0;"/>
	34

§38.2-3409 of the Code of Virginia was enacted in 1968 and amended in 1974 and 1986. The following states have a handicapped children mandate:

Arizona	1977	Nevada	1976
Arkansas	1969	New Hampshire	1969
California	1971	New Jersey	1966
Connecticut	1971	New Mexico	1969
Florida	1970	New York	1989
Georgia	1972	North Carolina	1973
Hawaii	1968	North Dakota	1983
Idaho	1972	Ohio	1971
Illinois	1967	Pennsylvania	1968
Indiana	1986	South Carolina	1970
Louisiana	1972	Tennessee	1969
Maryland	1977	Texas	1981
Massachusetts	1956	Utah	1975
Michigan	1966	Virginia	1968
Minnesota	1969	Washington	1969
Mississippi	1972	Wisconsin	1975
Montana	1971	Wyoming	1971

#### **COST ASSOCIATED WITH THE DEPENDENT CHILDREN MANDATE**

Some information on the cost of the dependent children mandate was submitted to the State Corporation Commission's Bureau of Insurance in 1989 for the study on the social and financial impact of mandated benefits and mandated providers conducted pursuant to Senate Joint Resolution 215. The report contained the results of the initial survey, and second survey.

The report also presented the results of the responses solely based on claims experience. Those responses included the insurers writing the largest amount of premiums in Virginia. The average of the experience of those respondents indicated that less than 1% of their actual claims experience was attributed to the dependent children mandate.

The 1989 report also contained the response of insurers regarding whether the coverage was provided prior to a mandate. Survey responses indicated that 93% of the companies provided dependent children coverage prior to the mandate.

Blue Cross and Blue Shield of Virginia (BCBSVA) studied its costs associated with mandated benefits and providers in 1989. BCBSVA's findings indicate that in 1987 less than one percent (.18%) of its claims were due to the dependent children mandate. Information from the BCBSVA report follows:

BCBSVA Expenditures  
Dependent Children Coverage  
(Individual and Group)

	<u>1986</u>	<u>1987</u>	<u>1988</u>
Total Claims (millions)	\$0.8	\$0.9	\$1.1
Claims per Member Month	\$0.10	\$0.11	\$0.11
Claims as Percent of Total	0.17%	0.18%	0.16%

**NEED FOR DEPENDENT CHILDREN COVERAGE IN VIRGINIA**

According to the national prevalence rate for mental retardation (1-3%), there are from 61,874 to 185,620 mentally retarded Virginians. The Department of Mental Health, Mental Retardation and Substance Abuse (MHMRSA) provided services to 21,775 individuals over the age of 18 in fiscal year 1990. That figure would include individuals more than once if they received more than one service from MHMRSA. Approximately 10,408 physically handicapped Virginia children were provided services through the Division of Children's Specialty Services in fiscal year 1990.

According to national prevalence rates, up to 3% of Virginia's population is born physically handicapped.

**REVIEW CRITERIA**

Social Impact

- a. **The extent to which the treatment or service is generally utilized by a significant portion of the population.**

Dependent children coverage directly affects 1-3% of the Virginia population because of mental retardation. Another 10,000 or more children in Virginia are physically handicapped.

- b. **The extent to which insurance coverage for the treatment or service is already available.**

Insurance coverage for dependent children is required to be included in individual and group accident and sickness policies and subscription contracts issued or issued for delivery in Virginia by §38.2-3410. The findings of the 1989 study by the State Corporation Commission's Bureau of Insurance indicated that 93% of the companies responding to the SCC survey provided dependent children coverage prior to the mandate.

- c. **If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.**

Coverage is generally available. According to figures in the 1989 BCBSVA report on mandated benefits claims per member per month averaged 11 cents in 1987 for BCBSVA.

- d. **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.**

Coverage is generally available. The extent to which the lack of coverage would result in unreasonable financial hardships is not known.

- e. **The level of public demand for the treatment or service.**

The level of public demand for health care by dependent children is likely to be determined by the incidence rates for mental retardation and physical handicaps. The national incidence rate for mental retardation is 1-3% of the population. At least 10,000 children in Virginia are physically handicapped.

- f. **The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.**

Public demand for this care is likely to be related to the number of individuals meeting the definition of a dependent child. We are not aware of the demand from providers.

- g. **The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.**

Not known.

- h. **Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.**

Not known.



## Financial Impact

- a. **The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.**

No evidence has been received regarding the impact of this mandate on the cost of treatment or service.

- b. **The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.**

No evidence has been received to indicate that this mandate has led to an increase in either the appropriate or inappropriate use of treatments or services.

- c. **The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.**

Not applicable. This mandate requires the extension of the coverage period, not a treatment or service.

- d. **The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.**

The number and types of providers is not likely to be affected by this mandate.

- e. **The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.**

This mandate has been in effect since 1968. The administrative expenses of insurers for a new mandate has been estimated to average \$71,100.

- f. **The impact of coverage on the total cost of health care.**

The coverage of dependent children may have a slight impact on the total cost of health care. Some individuals may go without some care in the absence of coverage. Blue Cross and Blue Shield of Virginia found that its cost per contract per year for this coverage was 80 cents, \$1.76, and \$1.81 in the years 1986, 1987 and 1988.

## Medical Efficacy

- a. The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.

Health care coverage for the mentally retarded and physically handicapped has not been questioned on the basis of medical efficacy. The health care needs for these groups is recognized.

- b. If the legislation seeks to mandate coverage of an additional class of practitioners:

- 1) The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.

Not applicable.

- 2) The methods of the appropriate professional organization that assure clinical proficiency.

Not applicable.

## Effects of Balancing the Social, Financial and Medical Efficacy Considerations

- a. The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.

The mandate of coverage for dependent children addresses a medical and social need. The dependent children have recognized medical needs and the parents who care for them have reasonable grounds to expect their health care coverage to extend to these children.

- b. The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.

The cost of this mandate less than 1% of the cost of a family policy. Insurers are allowed to rate the dependent child according to the insurers' general underwriting criteria.

- c. **The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.**

Mandating the availability of coverage as an option for policyholders is not likely to meet the need for this mandate. The majority of Virginians with health care coverage are insured through group policies connected with employment. The option to elect coverage would not be available to the actual certificate holders.

#### **RECOMMENDATION**

The Advisory Commission recommends to the General Assembly of Virginia that no change be made to §38.2-3409. Section 38.2-3409 mandates that an individual or group accident and sickness policy or subscription contract that covers dependent children must extend coverage beyond the attainment of a specified age if the dependent insured is (i) unable to self-sustain employment because of mental retardation or physical handicap; and (ii) the child depends on the policyholder for maintenance and support.

#### **CONCLUSION**

The mandate of coverage for dependent children provides a recognized social benefit. It is not unreasonable to expect insurance coverage for a handicapped or mentally retarded dependent child to be continued beyond the age of a child without such conditions. We are not aware of the exact cost of this mandate. Existing data indicates that the cost is not substantial and §38.2-3409 allows the insurer to charge an additional premium for the dependent that is based on the individual child's risk.

The Advisory Commission has found that the benefits of §38.2-3409 outweigh the identifiable cost associated with the mandate and believes that §38.2-3409 should not be revised.

**SECTION 38.2-3409 OF THE CODE OF VIRGINIA**

**§38.2-3409. Coverage of dependent children.** - A. Any group or individual accident and sickness insurance policy or subscription contract delivered or issued for delivery in this Commonwealth which provides that coverage of a dependent child shall terminate upon that child's attainment of a specified age, shall also provide in substance that attainment of the specified age shall not terminate the child's coverage during the continuance of the policy while the dependent child is and continues to be both: (i) incapable of self-sustaining employment by reason of mental retardation or physical handicap, and (ii) chiefly dependent upon the policyowner for support and maintenance.

B. Proof of incapacity and dependency shall be furnished to the insurer by the policyowner within thirty-one days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age.

C. The insurer may charge an additional premium for any continuation of coverage beyond the specified age. The additional premium shall be determined by the insurer on the basis of the class of risks applicable to the child. (1968, c. 411, §38.1-348.1; 1974, c. 95; 1986, c. 562.)