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

Section 38.2-3413 of the Code of Virginia: Coverage for Alcohol and Drug Dependency Treatment

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

SENATE DOCUMENT NO. 23

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SENATE OF VIRGINIA

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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 38.2-3413 of the Code of Virginia regarding health insurance coverage for the treatment of alcohol and drug dependency.

Respectfully submitted,

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Special Advisory Commission on
Mandated Health Insurance Benefits

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Introduction

Section 38.2-3413 of the Code of Virginia (Appendix) requires insurers and health services plans to make available to group policyholders with family coverage, coverage for treatment for alcohol and drug dependency. The coverage must not be more restrictive than for any other illness. Coverage must include at least 45 days of inpatient treatment in a policy or calendar year and at least 45 sessions of outpatient treatment in a policy or calendar year.

Section 38.2-3413 of the Code of Virginia also contains definitions of the terms "treatment" "alcohol or drug rehabilitation facility" and "intermediate care facility". The section does not apply to short-term travel, accident only, limited, specified disease or Medicare supplement policies.

The Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) held a public hearing on §38.2-3413 on October 5, 1992. Four speakers were heard and written comments were received from three interested parties. Additional oral comments were made at the November 9, 1992 meeting.

Coverage for Alcohol and Drug Dependency Treatment

Forty states, including Virginia, mandate some form of coverage for alcohol and drug dependency treatment. Fourteen of those states require only an offer of coverage. Twenty-eight of the forty mandates apply only to group policies.

The coverage that is required under the mandates for inpatient care varies a great deal. Coverage requirements range from seven days for detoxification up to "treatment the same as any other illness". A number of states require 30 days of inpatient treatment. The mandates for outpatient coverage also vary. A few states, require only $500 of benefits for outpatient treatment. On the other hand, at least eight states require that outpatient treatment for alcohol and drug abuse be covered on the same basis as any other illness.

Insurers providing testimony to the Advisory Commission indicated that few, if any, group policyholders in Virginia have accepted the offer of coverage for alcohol and drug dependency that is mandated. Consumer organizations and providers acknowledged that the majority of the care that is received for alcohol and drug dependency treatment is reimbursed under the mandate of inpatient coverage for mental, emotional or nervous disorders. (§38.2-3412) However, some care is reimbursed under §38.2-3413 and the definitions of the terms treatment, alcohol or drug rehabilitation facility and intermediate care facility that are contained in that section are not contained elsewhere in Title 38.2.

The separate mandate for alcohol and drug dependency treatment has not been significantly revised since 1978. Consumer and provider organizations did not request the retention of the existing mandate.

Evaluation of §38.2-3413
Based on Review Criteria

Social Impact

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

According to national prevalence rates, 3.8% of Virginia's population or 197,000 individuals have substance abuse disorders.

Virginia's prevalence rate may be higher than the national rate because of the levels of education, poverty and disabled individuals in the state.

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

Coverage for treatment for alcohol and drug dependence is included in the current mandate of inpatient mental, emotional or nervous disorders coverage. The current mandate for alcohol and drug dependency requires only an offer of coverage for group policies.

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.

Thirty days of inpatient treatment is available under §38.2-3412. However, outpatient coverage is not generally available. Proponents made the argument for mental, emotional or nervous disorders treatment, that the lack of outpatient treatment can result in inappropriate or unnecessary use of inpatient treatment.

Those individuals without insurance coverage can end up in the already crowded public mental health system. Proponents point to the effects that untreated mental illness have on the individual, their family and society.

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.

Proponents make the argument that without insurance coverage out-of-pocket payments may leave some individuals medically indigent.

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

The proponents of coverage for all mental, emotional and nervous disorders point to the current waiting lists for treatment in the public sector. DMHMRSAS projects that under current conditions there will be waiting lists for outpatient treatment of approximately 1,500 people in the years 1996-2000.

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

Providers and consumers supported the need for insurance coverage for treatment for alcohol and drug dependency. However, proponents did not ask that a separate mandate be retained for the coverage.

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

Information was not presented regarding the interest of collective bargaining organizations for this mandate. Two of the largest writers of accident and sickness insurance in Virginia did indicate, however, that none of the groups they offered this coverage to had accepted it.

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.

The DMHMRSAS supports the need for coverage for alcohol and drug dependency treatment, however, the department did not address the need for a separate mandate.

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.

Information from insurers indicates that the current "must offer" mandate for alcohol and drug dependency coverage has not been selected to a significant extent. Cost information for these treatments is included in data on mental, emotional or nervous disorders coverage.

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

Opponents in the past raised the point that the potential exists for outpatient care to be over-utilized because managed

care does not affect outpatient care to a great extent at this time. This issue was not addressed with respect to the separate mandate.

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

Arguments were made that without mental, emotional or nervous disorders coverage (which includes coverage for substance abuse treatment), conditions go untreated for longer periods of time. Untreated disorders can then lead to physical problems that will then need treatment.

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.

This is an existing mandate. The number of providers would not be expected to increase significantly in the next five years.

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.

Opponents in the past have indicated that the administrative costs associated with an offer of coverage average $71,000. However, the mandate being reviewed is an existing one. Most of the administrative costs associated with a mandate are incurred when a mandate is initially required.

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

Proponents of the mental, emotional or nervous disorders mandate cited research that demonstrates that appropriate mental health care reduces overall health care costs.

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.

Proponents made the argument when addressing the mental, emotional or nervous disorders mandate, that the medical efficacy of treatment for substance abuse disorders is well documented.

Opponents did not question the medical efficacy of the treatment for substance abuse disorders.

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 benefit addresses medical and social needs. Coverage for substance abuse disorders is in the public's interest because of the effect that people needing treatment have on everyone. No arguments were presented that this coverage is inconsistent with the role of health insurance.

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

Proponents of coverage for mental, emotional or nervous disorders treatment point to the effect that those needing treatment have on society.

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

The current mandate is optional. Two insurers writing a significant amount of the accident and sickness business in Virginia indicated that group policyholders have not accepted the offer of coverage for this benefit.

Recommendations

The Advisory Commission voted to recommend the deletion of §38.2-3413 that contains the separate mandate of coverage for alcohol and drug dependency. The Advisory Commission recommends that alcohol and drug dependency treatment remain eligible for coverage under §38.2-3412 that mandates coverage for mental, emotional or nervous disorders.

In addition, it is recommended that the definitions contained in §38.2-3413 be incorporated into the language in §38.2-3412. The definitions are not contained elsewhere in the Insurance Code and include pertinent information.

Conclusion

The Advisory Commission voted 8 to 2 with 1 abstention to recommend that the separate mandate for alcohol and drug dependency treatment be eliminated, but that the treatment continue to be covered under the mandate of coverage for mental, emotional or nervous disorders.

The Advisory Commission believes that the need for this coverage can be adequately addressed under the mental, emotional and nervous disorders mandate. The Advisory Commission believes the revisions that it recommended to the mental, emotional or nervous disorders mandate will improve coverage and treatment for substance abuse disorders as well as other mental, emotional or nervous disorders.

§ 38.2-3413. Coverages for alcohol and drug dependence. — A. As used in this section:

"Treatment" includes diagnostic evaluation, medical, psychiatric and psychological care, counseling and rehabilitation for incapacitation by, or physiological or psychological dependence upon, alcohol or drugs that are determined to be necessary by and are provided by a certified alcoholism counselor, certified drug counselor, professional counselor, psychologist, or social worker licensed or certified pursuant to Chapter 35 of Title 54.1 or by a licensed physician.

"Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the State Mental Health, Mental Retardation and Substance Abuse Services Board pursuant to Chapter 8 (§ 37.1-179 et seq.) or Chapter 11 (§ 37.1-203 et seq.) of Title 37.1; (ii) an office or clinic of a licensed physician or clinical psychologist; (iii) a state agency or institution; or (iv) a facility accredited by the Joint Commission on Accreditation of Hospitals.

"Intermediate care facility" means a licensed, residential public or private alcohol or drug rehabilitation facility that is not a hospital and that is operated primarily for the purpose of providing a continuous, structured twenty-four-hour-a-day state-approved program of inpatient treatment and care for inpatient alcoholics or drug addicts.

B. No group accident and sickness insurance policy providing coverage on an expense incurred basis and no group subscription contract which provides coverage of a family member of the insured or the subscriber shall be delivered or issued for delivery in this Commonwealth unless coverage for incapacitation by, or physiological or psychological dependence upon, alcohol or drugs was made available as an option. The coverage made available shall not have limits that are more restrictive than for any other illness and shall include as a minimum (i) treatment as an inpatient in any alcohol or drug rehabilitation facility and intermediate care facility for at least forty-five days during any given policy year or calendar year, and (ii) outpatient treatment in any alcohol or drug rehabilitation facility consisting of at least forty-five sessions of individual, group, or family counseling during any given policy year or calendar year.

C. The provisions of this section shall not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans. (1977, c. 606, § 38.1-348.8; 1978, c. 349; 1986, c. 562.)