REPORT OF THE
SPECIAL ADVISORY COMMISSION ON MANDATED
HEALTH INSURANCE BENEFITS

HOUSE BILL 813 (1996): MANDATED COVERAGE OF HOME CARE IN LONG-TERM CARE INSURANCE POLICIES

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

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COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

December 17, 1996

To: The Honorable George Allen
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to §§ 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 House Bill 813 (1996 Session) regarding mandated coverage of home care in long-term care insurance policies.

Respectfully submitted,

George H. Heilig, Jr.
Acting Chairman
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Mandated Health Insurance Benefits

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TABLE OF CONTENTS

INTRODUCTION

The House Committee on Corporations Insurance and Banking referred House Bill 813 to the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) for review. House Bill 813 is patroned by Delegate Kenneth Plum.

The Advisory Commission held a hearing on July 12, 1996 in Richmond to receive public comments on House Bill 813. Five speakers addressed the proposal. Representatives of GE Capital Insurance, Unum Life Insurance Company of America, Aegon, Time Insurance Company, and the Health Insurance Association of America spoke in opposition to the bill. Written comments were received from the bill's patron in support of the legislation.

The Advisory Commission concluded its review of House Bill 813 on September 19, 1996. Written comments were received in opposition to the bill from Transamerica Life Companies, United Teacher Associates Insurance Company, IDS Life Insurance Company, Time Insurance Company, GE Capital Assurance, Aegon Insurance Group, Trigon Blue Cross Blue Shield, Bankers Life and Casualty Company, Virginia Manufacturers Association, Unum Life Insurance Company of America, Virginia Chamber of Commerce, Aid Association for Lutherans, and American Travelers Life Insurance Company.

SUMMARY OF PROPOSED LEGISLATION

House Bill No. 813 requires that no long-term care (LTC) insurance policy may be delivered or issued for delivery in Virginia unless the policy provides benefits for home health care. The requirements would be added to the LTC Insurance Chapter of the Insurance Code as § 38.2-5202.1. The bill does not apply to contracts that are normally sold to cover acute health care needs such as major medical and medical expense contracts. Those contracts provide what is sometimes referred to as "comprehensive coverage." Comprehensive contracts pay for a hospital stay for removal of tonsils, or surgery on a back.

CURRENT REQUIREMENTS FOR LONG-TERM CARE INSURANCE

The LTC Insurance Chapter was added to the Insurance Code in 1987 and was amended in 1990. The chapter defines LTC insurance as being "any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, personal care, mental health or substance abuse services, provided in a setting other than an acute care unit of a hospital."

This definition may include home health care but it does not require home health care to be included in a LTC policy.

Forty-three states, including Virginia, have adopted legislation similar to the National Association of Insurance Commissioners (NAIC) Model Regulation. The NAIC model regulation does not require that insurers include home health care benefits, in long-term care benefits but, if a long-term care policy includes those benefits the NAIC provisions prohibit benefits being denied or limited (i) because skilled care would be needed if the home services were not provided; (ii) because the claimant did not first or simultaneously receive nursing or therapeutic services; (iii) because services were not provided by registered nurses or licensed practical nurses; (iv) by requiring that covered services be provided by a nurse; (v) by excluding personal care services by a home health aide; (vi) by requiring that the provision of home health care services be at a level of certification of licenser greater than that required by the eligible service; (vii) by requiring that the insured or claimant have an acute condition before home health care services are covered; (viii) by limiting benefits to services provided by Medicare-certified agencies or providers; or (ix) by excluding coverage for adult day care services.

The NAIC model also requires that if a LTC policy or certificate provides for home health or community care services, it shall provide total home health or community care coverage that is a dollar amount equivalent to at least six months of coverage under the policy for nursing home benefits. (This does not apply to residential or continuing care retirement communities.)

The provisions in the home health care section were adopted in amendments to the Act. The NAIC's objective was "to assure that the home health benefit is not illusory, but to allow flexibility at the same time."

Home health care services are defined in the regulation as "medical and non-medical services, provided to ill, disabled or infirm persons in their residences. Such services may include home maker services, assistance with activities of daily living and respite care services."

LONG-TERM CARE INSURANCE HOME HEALTH REQUIREMENTS IN OTHER STATES

According to information from the NAIC, there are 47 states that have some type of law or regulation specifically for LTC policies and 43 are similar to the NAIC model law and regulation. Thirty-seven of those states have requirements for home health care benefits that are based on the NAIC model. Three states have no provision at all regarding home health care. The remaining seven states are Kansas, Maine, Massachusetts, Minnesota, New York, South Carolina, and Wisconsin.

Kansas includes some of the NAIC model provisions regarding home health care but not all the prohibitions. Kansas does not require that home health benefits be included in LTC policies.

Maine requires that LTC policies must provide home health care benefits of at least 90 visits per year. The lifetime maximum number of visits may not be less than the lifetime maximum number of days of intermediate care benefits.

Massachusetts requires that individual LTC policies either be Nursing Home and Home Care Policies or Home Health Care Policies. Nursing Home and Home Health Care Policies must include home health care benefits per day that may not be less than 50% of the actual benefit level for a day in a nursing home. Home Health Care Policies must have benefits of at least $25 per day.

New York is currently conducting a demonstration project that requires a home care benefit of 50% of the minimum nursing home benefit. The nursing home benefit is set in New York's law to increase from $100 per day in 1993 up to $155 per day ($77 for home care). Home care benefits are to be provided when services are rendered in the insured's place of residence, adult day care/other group setting or when assistance is required for travel such as to a physician's office. Home care benefits are to be payable for at least the following services: skilled nursing care, home health care, personal care, assisted living and adult day care, provided that the services are performed by entities licensed or certified by the Department of Health (or agencies exempt from license requirements).

South Carolina's LTC regulation includes a provision requiring the insured to have the option of receiving necessary care in the home or community with daily benefits the same as would be paid for stay in a nursing home or community residential care facility.

Wisconsin requires LTC policies to include home health care of not less than 50% of the nursing home benefit. Wisconsin also allows the sale of Nursing Home Only Policies and Nursing Home policies that include Home Care.

According to Insurance Department personnel, Minnesota permits the sale of a Nursing Home Only Policy but still requires a LTC policy to include home health care.

STATE REQUIREMENTS FOR HOME HEALTH CARE COVERAGE IN OTHER CONTRACTS

According to information from the Health Benefits Letter, there are 15 states that require home health care benefits to be included in policies providing hospital, medical and surgical benefits or major medical coverage. Three states require that home health care benefits be offered to policyholders.

The state requirements for home health care are varied. The requirements of seven states are summarized here. Maryland requires at least 40 home care visits in every calendar year or periods of 12 months. Up to four or five hours of care is to be considered one visit. Maine requires at least 90 visits every 12 months. Colorado requires at least 60 home health visits in any calendar year. Benefits can be governed by the deductible, co-insurance and stop-loss provisions of the overall policy or certificate. California requires at least 100 visits in a calendar year or 12-month period. The home health care benefits can be subject to an annual deductible of no more than $50 per person covered under the policy and a coinsurance provision of not less than 80% of the reasonable charges.

Nevada requires group contracts to include a provision for benefits for expenses arising from care at home or health supportive services if the care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility.

New York requires individual policies that include in-patient hospital care to provide home care to residents in the state. The contract may limit the home care visits to 40 per calendar year or 12-month period.

Texas requires group policies of accident and sickness insurance to include coverage for home health services. The policyholder can reject the coverage. The policy must include coverage for at least 60 visits in any calendar year or 12-month period.

CURRENT INDUSTRY PRACTICES IN VIRGINIA

The Virginia LTC regulation (Regulation No. 40) was adopted effective January 1992, and includes the home health care provisions in the NAIC model regulation.

As of March 1996, there were 57 companies that had filed contracts in Virginia complying with the requirements of Chapter 52 and Insurance Regulation No. 40. Staff surveyed those companies in May to determine the coverage for home health care that is available under those contracts, the cost related to separate coverage for home health benefits, and if home health care benefits are available on a separate basis. Questions were included about home health care coverage under contracts offering major medical or hospital, medical and surgical policies that the companies offer in Virginia.

Forty-four responses to the survey were received by June 20, 1996. Thirty-two of those respondents are currently offering LTC contracts in Virginia. Many of the other twelve respondents discontinued the sale of LTC contracts in

Virginia or nationwide. A few of the insurers had contracts approved but have not begun to sell the products.

Nineteen of the thirty-two insurers that offer LTC policies in Virginia already include coverage for home health care benefits in those policies. The thirteen companies that do not include coverage for home health care as a part of their contract all offer optional coverage for home health care that can be purchased separately.

The companies that include home health care benefits have benefits that range from $40 per day up to $250 per day. Many of the contracts' payments are based on a percentage of an actual facility benefit such as 80, 90, or 100% of the maximum facility benefit. The insured usually has a choice regarding the number of years the home health care benefits are payable (2/3/4/6 years and up to a lifetime for some insurers). The elimination period, or time before the contract will begin to pay for this benefit, is also often selected by the insured (0 days/20/90 days).

The optional coverage that is available from insurers that do not include home health care benefits in their contracts is similar to the coverage included in the LTC contracts. The range of coverage available from survey respondents is from $30 up to $250 per day with coverage available for 1/2/3/4/5 years and up to lifetime. Elimination periods include options of 0/20/60/100 days. The coverage under most of the contracts varies with the type of care provided (non-professional care, professional care, respite services, home health agency etc.).

The cost of the coverage also varies. For optional benefits for home health care, most companies responding that offer such coverage have unisex rates (same rates for males and females) and, as with most LTC coverages, the cost increases with the age of the insured. In one example, the annual premium for a home health care benefit of $150 per day for 5 years would cost:

$570 for a male/female 50
$945 for a male/female 60
$1,605 for a male/female 70

The survey also asked if insurers include coverage for home health care in the major medical or hospital, medical and surgical policies that they write. Sixteen of the forty-four companies responding to the survey do not sell those types of coverages in Virginia. Nine of the twenty-eight insurers offering comprehensive contracts provide home health care benefits. Seven companies include home health care benefits in their comprehensive contracts and two companies make home health care available as an optional benefit. The following coverages were included in contracts:

- $40 per visit up to $1,600 per year;
- $120 per visit up to four hours subject to major medical maximum:
- 60 days of $50 per day:
- 100 visits per 12 months; and
- 40 visits per year with no limit on maximum.

SOCIAL IMPACT

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

The average age of a long-term care insurance policyholder is 69. The insurance industry projects that 60% of those purchasers chose coverage for home health care. There were approximately 2 million Virginians over the age of 45 in 1994. LTC contracts are usually sold to individuals over age 40. However, any one of Virginia's 6.5 million residents could need home health care after an injury or illness.

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

Thirty-two insurers that currently offer LTC contracts in Virginia responded to a 1996 survey by Bureau staff. Nineteen of the thirty-two insurers include coverage for home health care benefits in those contracts. The other thirteen responding companies offer optional coverage for home health care that may be purchased separately.

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.*

Insurers make the argument that coverage is generally available. They also estimate that about 90% of home care in the United States is provided by family and friends. Proponents of the bill identified situations where single parents are without family members close by and individuals with specific medical needs that cannot be met by friends as examples where lack of coverage for home health care makes the services nearly unobtainable.

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.*

Lack of coverage for home health care can pose financial problems for individuals and families. Costs for home care vary depending upon the degree of skills necessary for the care provider. An information sampling of costs in the Richmond area generated responses of from $10.50 to $12.00 per hour for home health aides, and from $17.25 to $24.00 per hour for Licensed Practical

Nurses. Proponents of the bill provided an example where home health care has been necessary for over five months. Extended periods of home care without insurance coverage can devastate the finances of a family. A 40-hour week plus one hour commute time could cost a family from $472.50 to $1,080 per week based on the costs in the Richmond sample.

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

No information was supplied to the Advisory Commission regarding the level of public demand for the service.

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

No information was received from providers of this service requesting insurance coverage. Individual members of the public and some consumer groups previously requested that long-term care contracts be required to include home health care benefits. The proponents of Home Health Care (HHC) benefits did not provide numbers of the public supporting the measure.

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

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

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 Advisory Commission is not aware of any such findings of a state health planning agency or appropriate health system agency relating to the social impact of this proposal.

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 information was presented to the Advisory Commission to indicate that insurance coverage would increase or decrease the cost of HHC.

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

Insurance coverage is not expected to increase the inappropriate use of HHC. Home Health Care is most often used prior to institutional care. Generally, home care ends when an individual's physical needs exceed the care that can be provided at home. Appropriate use of home care may increase if coverage is increased and more individuals have the choice to receive care at home and delay or avoid institutionalization.

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

Home Health Care is usually less expensive than inpatient hospital care or nursing home care. However, all individuals seeking home health care would not necessarily be confined to an acute care hospital or a nursing home. Some individuals would stay at home and receive care from either family members or other informal care givers.

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 coverage is not expected to effect the number or types of providers of home health care over 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.*

Insurers estimate that the cost of adding home health care in LTC policies will increase the annual policy premium by an average of 50%. The range of increase was projected by one insurer to be 15% to 60% of the annual premium depending on the age of the applicant. The premium for a LTC policy would increase from $1,000 to $1,500 if the average amount of increase applied.

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

Coverage for home care is not expected to significantly effect the total cost of health care.

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.*

The medical efficacy of home health care was not questioned by any information received by the Advisory Commission. Home health care, for the typical purchaser of long-term care policies, generally allows the individual to remain in their own home and communities for a longer period of time prior to being institutionalized. The value of allowing the elderly to remain at home, with adequate support, is generally considered to be significant.

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.*

This criterion is not applicable to the proposal.

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

This criterion is not applicable to the proposal.

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 a medical need and a social need and is consistent 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.*

Information was presented to the Advisory Commission that indicates that coverage is generally available for home health care for LTC contracts. The cost of mandating the benefit for all LTC policy holders is expected to be considerable.

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 coverage as an option for policyholders is not expected to address the need for coverage because HHC is currently widely available as an optional coverage. Additionally, for those receiving LTC coverage through a group contract, the offer of coverage would be made to the group policyholder

and the individual covered by the certificate would not make the coverage decision.

RECOMMENDATION

The Advisory Commission voted unanimously on September 19, 1996 to recommend that House Bill 813 not be enacted (No-8, Yes-0)

CONCLUSION

The Advisory Commission concluded that coverage for home health care in long-term care insurance policies is generally available. Most insurers that sell long-term care insurance in Virginia either include home health care in the contracts or offer it as an optional benefit. Requiring all long-term care policies to include home health care would eliminate the ability of a consumer to choose a contract that covered care only in non-home settings.

The Advisory Commission also determined that a mandate that long-term care policies cover home health care would not reach the majority of Virginians under age 40 because contracts are generally purchased after that age.

963399408

HOUSE BILL NO. 813

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding a section numbered 38.2-5202.1, relating to long-term care insurance; home care coverage.

Patron—Plum

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-5202.1 as follows:

§ 38.2-5202.1. Home care coverage required.

No long-term care insurance policy may be delivered or issued for delivery in this Commonwealth unless such policy provides benefits for home health care.

963399408

HB813

1/22/96 17:25

Official Use By Clerks

Passed By The House of Delegates		Passed By The Senate	
without amendment	☐	without amendment	☐
with amendment	☐	with amendment	☐
substitute	☐	substitute	☐
substitute w/amdt	☐	substitute w/amdt	☐

Date: _____ Date: _____

_____ _____

Clerk of the House of Delegates Clerk of the Senate