

## State Corporation Commission 2009 Fiscal Impact Statement

**1. Bill Number:** HB1588

House of Origin	<u>X</u>	Introduced	___	Substitute	___	Engrossed
Second House	___	In Committee	___	Substitute	___	Enrolled

**2. Patron:** Marshall, R.G.

**3. Committee:** Commerce and Labor

**4. Title:** Autism spectrum disorder; mandated health insurance coverage therefor.

**5. Summary/Purpose:** Requires insurers to offer health insurance coverage for the diagnosis and treatment of autism spectrum disorder (ASD) in individuals under the age of 21. The bill applies to insurers proposing to issue group accident and sickness insurance policies providing hospital, medical or surgical, or major medical coverage on an expense-incurred basis; corporations providing group accident and sickness subscription contracts; and HMOs providing a health care plan. Insurers shall not terminate coverage, or refuse to deliver, issue, amend, adjust, or renew coverage, to an individual solely because the individual is diagnosed with one of the ASDs or has received treatment for ASD. "Treatment for autism spectrum disorder" includes the following care prescribed, provided, or ordered for an individual diagnosed with one of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary: (i) habilitative or rehabilitative care; (ii) pharmacy care; (iii) psychiatric care; (iv) psychological care; and (v) therapeutic care. The bill states that, except for inpatient services, an insurer will have the right to request a review of treatment of an individual receiving service for an ASD once every 12 months unless the insurer, corporation or HMO and the individual's licensed physician or licensed psychologist agrees that a more frequent review is necessary. The cost of obtaining a review shall be covered under the policy, contract or plan, and does not apply to inpatient services. Coverage under the bill is limited to an annual maximum benefit of \$36,000. Effective January 1, 2011, the annual maximum benefit amount (\$36,000) will be adjusted annually for inflation based on CPI-U as calculated by the Commission. Payments made on behalf of a covered individual for any care, treatment, intervention, service or item other than treatment for ASD will not be applied to towards the maximum benefit established under the bill. Coverage will not be subject to any visit limits and shall neither be different nor separate from coverage for any other illness, condition or disorder for purposed of determining deductibles, lifetime dollar limits, co-payment and coinsurance factors, and benefit year maximum for deductibles and co-payment and coinsurance factors. The bill provides for the usual and customary procedures insurers may use to determine the appropriateness of, and medical necessity for treatment of ASD if they are made in the same manner as those determinations made for the treatment of any other illness, condition, or disorder covered by such policy, contract or plan. The bill does not apply to (i) short-term travel, accident only, limited or specified disease policies, (ii) short-term non-renewable policies of not more than six months' duration, (iii) policies, contracts, or plans issued in the individual market or small group markets to employers with 25 or fewer employees, (iv) 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. The bill applies to

insurance policies, contracts and health care plans delivered, issued for delivery, reissued or extended on and after January 9, 2010 and when any term or premium adjustment is made. Any coverage required pursuant to the provisions of the bill shall be in addition to coverage required by 38.2-3418.5 and other provisions of law. Provisions of the bill shall not be construed as diminishing any coverage required by § 38.2-3412.1:01.

**6. No Fiscal Impact on the State Corporation Commission**

**7. Budget amendment necessary:** No

**8. Fiscal implications:** None on the State Corporation Commission

**9. Specific agency or political subdivisions affected:** State Corporation Commission Bureau of Insurance

**10. Technical amendment necessary:** Subsection F of new § 38.2-3418.15 provides, in part, that small employers with 25 or fewer employees are exempted from the provisions of the section. However, in order to conform with § 38.2-3432.2 A 2, which was enacted to implement the provisions of the Health Insurance Portability and Affordability Act (HIPAA), the group size must be 50 rather than 25. The Bureau of Insurance suggested a technical amendment to the patron to achieve compliance as follows:

Option 1

*F. The provisions of this section shall not apply to (i) short-term travel, accident only, limited, or specified disease policies, (ii) short-term nonrenewable policies of not more than six months' duration, (iii) policies, contracts, or plans issued in the individual market or small group markets to employers with ~~25~~ 50 or fewer employees, or (iv) 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; or*

Option 2

*F. The provisions of this section shall not apply to (i) short-term travel, accident only, limited, or specified disease policies, (ii) short-term nonrenewable policies of not more than six months' duration, ~~(iii) policies, contracts, or plans issued in the individual market or small group markets to employers with 25 or fewer employees;~~ or ~~(iv)~~ (iii) 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*

**11. Other comments:** This bill is similar to 2008 House Bill 83, which was also introduced by Delegate Robert Marshall. House Bill 83 was adopted as an amendment in the nature of a substitute by the House Committee on Commerce & Labor and referred to the Special Advisory Commission on Mandated Health Insurance Benefits (Special Advisory Commission) for review. Revised language was reviewed and voted on by the Special Advisory Commission and referred to as House Bill 83 – Amended, which is substantially the same as this bill. The vote was contingent on language being added to the bill to recognize the need to make changes to comply with the federal Mental Health Parity and Addiction Equity Act of 2008. A revision was made

on Lines 82-83 to address the Mental Health Parity Act (MHP Act). Further changes pursuant to the federal act will likely be necessary once further guidance relating to the MHP Act is provided by federal regulators. Currently, the statute proposed in House Bill 1588, and the existing statute defining “biologically based mental illness”, (§ 38.2-3412.1:01), taken together, will define and describe autism spectrum disorder, (ASD) as a biologically based mental illness for which benefits must be on parity with those provided for physical illness generally. Federal regulators charged with enforcing the federal MHP Act are aware of potential conflicts relating to autism mandates in a number of states.

**Date:** 01/18/09/V. Tompkins

cc: Secretary of Health and Human Resources