



December 18, 2012

Governor Nikki R. Haley
Office of the Governor
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Governor Haley,

I write with regard to the Affordable Care Act and the imminent designation of the largest small group plan as South Carolina's benchmark for essential health benefits.

The default selection of the largest small group plan as the benchmark for South Carolina's exchange plans has devastated the autism community because it does not include coverage for autism treatment. As you know, the autism community worked extremely hard in 2006-07 to pass Ryan's Law, the groundbreaking legislation that provides meaningful insurance coverage to children with autism. South Carolina was the pioneer in passing this type of legislation, and 30 other states have followed suit since our law was enacted in June 2007.

Children with autism in South Carolina have been making remarkable progress as a result of the availability of health insurance coverage, particularly the benefit for Applied Behavior Analysis therapy. South Carolina has been heralded as an example of innovation and fiscal responsibility for passing Ryan's Law. Unfortunately, that coverage has not extended to children in small group plans, something that I hear about frequently from insured families who are crushed at not being able to afford treatment for their children.

Because South Carolina was the leader, there was little-to-no data at the time the legislature considered the bill to fully project what the cost impact would be. As a result, out of an abundance of caution and concern for small businesses, the legislature elected to exclude small group health plans from the bill.

We now know, based on actual claims data from the South Carolina State Employee Health Plan, that the premium impact of adding autism coverage turned out to be approximately 44 cents per member per month, which was approximately 500 times less than projected.

When the Affordable Care Act passed, it gave hope to uncovered autism families in South Carolina -- particularly self-employed and small business employees -- that exchange plans would finally offer an option for accessing meaningful health insurance coverage. Now that South Carolina is poised to default to a benchmark plan that does not include autism benefits, autism families are devastated.

There are, however, two alternative ways in which this unfortunate result could be remedied:

1 – As I understand it, states now have a small window – through December 26th -- in which to reconsider their benchmark selection. (In fact, Maryland changed its selection just yesterday.) South Carolina can and should select the State Employee Health Plan as its benchmark, thereby ensuring that all children with autism will have the ability to purchase a plan that provides the needed coverage.

The selection of the State Employee Health Plan as a benchmark will ensure that all South Carolina children with autism can purchase the same benefits that our state employees have. Indeed, that assurance is, in part, what motivated Arizona's Gov. Jan Brewer to do exactly what I am asking. Just a few months ago, Gov. Brewer faced the identical situation as in South Carolina. Arizona had passed an autism insurance bill in 2008, but the bill excluded small groups. When Gov. Brewer was faced with selecting a benchmark plan for her state or defaulting to the largest small group plan, she elected to choose a plan – the Arizona state employee health plan – so that children with autism would receive coverage in exchange-based plans. Certainly in Arizona, defaulting to a small group plan would have been politically popular, but Gov. Brewer stood up for children who cannot speak for themselves in selecting a benchmark with autism coverage. And she has been praised for her selection.

2 – The Business Blue Complete plan, which is the aforementioned largest small group plan in our state, does not at present include “habilitative” services, which are required as an essential health benefit under the ACA. Per guidance from the U.S. Department of Health and Human Services, a benchmark plan that is missing a category of essential health benefits must be supplemented to include the missing category. HHS has not defined “habilitative” services for purposes of the ACA, but based on the experience of other states (see Michigan below), “habilitative” services can be defined to include autism therapy. As part of the required supplementation of the benchmark, South Carolina could consider habilitative services under the ACA to include autism therapy and model the benefit after existing autism coverage under Ryan's Law in South Carolina.

Michigan is including autism benefits, despite selection of a benchmark that did not include them, by supplementing habilitative services. Per my conversation with the Lt. Governor of Michigan this morning, to effectuate such coverage, the state simply has to inform HHS by December 26th that it wishes to include autism benefits within habilitative services.

Time is of the essence because of the December 26, 2012 deadline. On behalf of the autism community, whom you have supported before, I ask for your assistance in providing options for children with autism in South Carolina. It is both the morally appropriate and fiscally responsible course of action for our state.

With warm personal regards,



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cc: Acting Commissioner Gwen Fuller-McGriff, South Carolina Department of Insurance