

## VI. Financing Comprehensive Systems of Care

### ***Executive Summary***

Other sections of this report outline important philosophies, strategies, values and outcomes associated with proactively addressing the needs of Nevadans with Autism. This section addresses the means to those ends, placing an emphasis on balancing public, private and personal investment in treating Autism; maximizing the impact of every dollar invested; and vesting those who are most affected, and who have the most situational knowledge, with influence in spending decisions.

In particular, this section looks at how insurance reform will help spread the high cost of Autism treatment across the community; how more open competition among service providers will attract more providers and keep prices reasonable; and how the State can make a difference by expanding what it already does, rather than developing new programs.

### ***Summary of issues/findings***

#### Insurance- Issues

1. Many families living with Autism who participate in health insurance programs are shocked to discover that Autism and related disorders are specifically excluded from their policy's schedule of benefits.
2. By prohibiting coverage of treatment needed by Nevada's policyholders with Autism, insurance companies are effectively passing these costs on to State programs, including Early Intervention Services, K-12 Education, Medicaid, Mental Health and Developmental Services, Independent Living Services and Vocational Rehabilitation. Combined, these programs spend millions of dollars each year providing services that insurance companies refuse to cover.
3. Some families living with Autism receive health benefits under a risk management method referred to as "self insurance." While self insurance is common in Nevada, treatments for Autism are universally excluded under Nevada's existing self insurance programs. (*Self insurance is a risk management method whereby a risk is retained, but a calculated amount of money is set aside to compensate for the potential future loss.*)

#### Insurance- Findings

1. The US government's military health insurance system, TriCare, now offers coverage for vital Autism services, including evidence-based behavioral interventions.
2. As of 2007, there were 16 states with statutory provisions related to insurance coverage for Autism.

3. Of those states, ten require coverage for Autism under provisions for mental health coverage, and six have separate provisions specifically related to Autism. Here is a brief overview of the insurance statutes that specifically address Autism:

**Georgia** If an insurance policy includes benefits for neurological disorders, it is prohibited from denying benefits for Autism. Such benefits are subject to the same terms and conditions as those for neurological disorders (Ga. Code Ann. § 33-24-59. 10).

**Indiana** Policies must include coverage for pervasive developmental disorders, including Autism. Coverage may not be subject to dollar limits, deductibles, co-payments, or coinsurance provisions that are less favorable to an insured than those that apply to a physical illness. Insurers and HMOs cannot deny or refuse to issue coverage on, refuse to contract with, refuse to renew or reissue, or otherwise terminate or restrict coverage on an individual because of a pervasive developmental disorder diagnosis (Ind. Code §§ 27-13-7-14. 7 and 27-8-14. 2-1 through 27-8-14. 2-5).

**Kentucky** Health benefit plans must include coverage, including therapeutic, respite, and rehabilitative care, for the treatment of Autism for a child age 2 through 21. Coverage is subject to a maximum benefit of \$500 per month for each covered child (Ky. Rev. Stat. Ann. § 304. 17A-143).

**Maryland** Policies must include coverage for habilitative services for children under age 19. "Habilitative services" means services, including occupational, physical, and speech therapies, for the treatment of a child with a congenital or genetic birth defect, including Autism, to enhance the child's ability to function. Reimbursement for habilitative services delivered through early intervention or school services is not required (Md. Code Ann. § 15-835).

**New York** Policies are prohibited from excluding coverage for the diagnosis and treatment of Autism Spectrum Disorders (ASD), including Autism (NY Ins. Law § 3221(l)(17), effective January 1, 2007).

**Tennessee** If a policy includes benefits for neurological disorders, it must provide benefits for ASD to children under age 12. Such benefits must be at least as comprehensive as those provided for other neurological disorders (Tenn. Code. Ann. § 56-7-2367).

4. Two states have addressed Autism coverage under self-insurance programs; Here is a brief overview of their statutes:

**Wisconsin** Requires health insurance policies and governmental and school district self-insured health plans to cover the cost of treatment for Autism, Asperger's Syndrome, and pervasive developmental disorders not otherwise

specified. The treatment must be provided by a psychiatrist, psychologist, a social worker who is certified or licensed to practice psychotherapy, a paraprofessional working under the supervision of any of those three types of providers, or a professional working under the supervision of an outpatient mental health clinic.

The coverage requirement applies to: both individual and group health insurance policies and plans, including defined network plans and cooperative sickness care associations; to health care plans offered by the state to its employees, including a self-insured plan; and to self-insured health plans of counties, cities, towns, villages, and school districts.

The requirement specifically does not apply to limited-scope benefit plans, Medicare replacement or supplement policies, long-term care policies, or policies covering only certain specified diseases. The coverage may be subject to any limitations or exclusions or cost-sharing provisions that apply generally under the policy or plan. (WI Senate Bill 178 and Assembly Substitute Amendment 1 to Senate Bill 178)

**Illinois** If a county is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for...Autism up to annual limits of \$36,000 but without limits as to the number of visits to an Autism service provider. Benefits for other conditions not related to Autism by an individual affected by ASD may not be applied to the maximum \$36,000 ASD benefit... subject to the same deductibles, co-payments and coinsurance provisions in the health insurance policy. Treatment for Autism Spectrum Disorders shall include: psychiatric care, psychological care, rehabilitative care, therapeutic care including speech, occupational, and physical therapy, pharmacy care, applied behavior analysis therapy, and any care, treatment, intervention, service or item for individuals with an Autism Spectrum Disorder which is determined by the Department of Health Care and Family Services, based upon its review of best practices or evidenced-based research, to be medically necessary.

### Insurance- Recommendations

1. The Nevada Legislature is encouraged to pass legislation requiring insurance coverage for Autism services. This legislation should:
  - a. Include all insurance programs in Nevada, including self-funded and self-insured plans.
  - b. Disallow pre-existing condition exclusions.
  - c. Specify that coverage may not be subject to dollar limits, deductibles, co-payments, or coinsurance provisions that are less favorable to an insured with Autism than those that apply to a physical illness.

- d. Specify that benefits must be at least as comprehensive as those provided for other neurological disorders under the policy, if applicable.
- e. Require coverage for coordination time among members of the treatment team.
- f. Empower the treating physician to direct the plan of care.
- g. Allow plan of care reviews no more often than every six months, to avoid insurers requiring evidence of medical necessity more frequently.

#### Any Willing Provider- Issues

1. When Nevada passes legislation mandating insurance coverage for individuals with Autism, families in some insurance plans will still face other barriers. These barriers may include not being able to find an in-network provider (especially in rural areas) or having to schedule services during school hours even though there are other highly qualified professionals in the area with after-school appointment times available.
2. A typical Any Willing Provider (AWP) law requires all health insurers to be ready and willing at all times to enter into service contracts with all health care providers who are qualified under state law, who practice within the general geographic area served by the insurance company, and who are willing to meet the terms and the conditions set forth by the insurer.
3. An AWP law enables market forces, rather than arbitrary decisions, to determine the equilibrium point for the supply and demand of particular medical services.

#### Any Willing Provider- Findings

1. Seven states have Any Willing Provider (AWP) laws that apply broadly to medical providers. There are additional states that have AWP laws that pertain specifically to pharmacies.
2. Opponents of the concept claim it undermines cost control mechanisms employed by health plans which allow them to offer lower premiums to enrollees; insurance companies also argue that they then cannot contract with the most highly qualified providers and they incur increased operating costs.
  - a. The universal application used in Nevada to initiate a contract with an insurance company does not include any clinical information, does not ask for samples of treatment plans or other therapy-specific information, and includes only administrative information (such as state license number, tax ID number, malpractice insurance information, etc); it does ask for a resume and a list of references but anecdotal evidence reveals that these are seldom used.

- b. Medical professionals report, when being denied access to an insurance plan in Northern Nevada, that the insurance company stated that there are currently enough providers in the area to serve their policyholders, despite the fact that after-school appointments are hard to come by. The insurance company advised that, until all plan providers reach 100% patient capacity, no more providers will be added to the panel. This approach seems to undermine the competitive forces that would benefit both the insurance company and the insured.
3. Proponents of AWP argue that, by selectively contracting and thereby excluding some providers, health plans are threatening providers' freedom to practice. Because providers increasingly depend on managed health plans as a source of income, they have lobbied aggressively for laws that would obligate plans to contract with any provider who meets the terms of participation.

#### Any Willing Provider- Recommendations

1. The Nevada Legislature is encouraged to pass an Any Willing Provider law, which:
  - a. Is not specific to pharmacists and which includes all service providers who serve individuals with Autism.
  - b. Is broad in scope, applying to all or most licensed providers in the state.
  - c. Details a list of specialties covered by the statute or asserts that the provisions apply to all specialties licensed in the state without specifically listing any.
  - d. Includes a provision that reimbursement rates to such providers be consistent with similar providers already contracted with that insurance company.
  - e. Specifies that provider enrollment is always open and not constrained to time limits or to certain times of the year.

#### Medicaid Waiver- Issues

1. Currently, Nevada Medicaid does not offer Applied Behavioral Analysis (ABA) or similar services traditionally needed by individuals with Autism. Adding these services to the Medicaid State Plan would require offering them to everyone on Medicaid, which could be an expensive proposition.
2. Services like ABA can only be targeted to a specific population (such as people with Autism) through a Medicaid Waiver. A Waiver enables the State to obtain federal Medicaid matching funds for medically necessary services.
3. However, there are three major drawbacks to a Waiver:

- a. First, Waiver applicants must be lower-income (normally a special income level of 300% of SSI). This means that a waiver would exclude most families on income criteria alone.
- b. Second, participants in home and community-based Waivers must meet nursing facility or ICF/MR level of care criteria and be at risk of institutionalization. Most children with Autism will not meet these requirements.
- c. Third, a Waiver must be cost-neutral, meaning that the cost to serve an average client on the Waiver must be less than or equal to the cost of institutional care. Because of the intense services needed for someone with severe Autism, an Autism Waiver may struggle to achieve cost-neutrality.

Data from the Office of Disability Services Autism program indicate that less than 10% of their applicants would meet both criteria A and B above.

#### Medicaid Waiver- Findings

1. At least four states offer Autism services through a Medicaid Waiver; these states include Wisconsin, Indiana, Colorado and Maryland.
2. Some states have implemented a stand-alone Waiver for Autism and others have incorporated Autism services under existing Waivers.
3. IQ measurements, which are often used in Waiver programs for other mental disabilities, don't work well for Autism because of the broad range of IQs found among people with Autism. Functional criteria offer a better measurement for Autism care needs.
4. The administration of Autism Medicaid Waivers sometimes fits better outside the Mental Health or Developmental Disabilities service system.

#### Medicaid Waiver- Recommendations

1. Given the investment of State resources necessary to develop an Autism Waiver, the limited number of Nevadans who could likely be served by such a Waiver, and the anticipated difficulty in getting a new Waiver approved by the Centers for Medicare and Medicaid services, it is recommended that Nevada instead increase its investment in the existing Autism service programs through the MHDS Regional Centers and the Office of Disability Services. This recommendation may change as the factors listed here evolve.
2. The absence of a Waiver should also be offset by an increased appropriation to Vocational Rehabilitation (which offers a 4 to 1 federal match) to build transitional supports for young adults with Autism moving from high school into adult training, education and work.

### Existing State Services- Issues

1. As outlined above in this section, insurance coverage for Autism treatment is almost nonexistent. Furthermore, there are scant federal resources dedicated to Autism intervention.
2. As a result, kids who might have had their Autism mitigated through early treatment, and who might have gone on to lead productive lives, instead continue to be dependent as adults and often turn to State programs—like Welfare, Mental Health Services and Medicaid—to find subsistence.
3. The State of Nevada has been late in recognizing this “passing of the buck” by the federal and private sectors.

### Existing State Services- Findings

1. Before entering school, young children with Autism can qualify for assistance from Nevada Early Intervention Services (NEIS). Taking advantage of this early window of opportunity can yield the greatest benefit for each treatment dollar invested. Unfortunately, NEIS is under-funded to meet the needs of Nevada’s growing Autism population.
2. The large school districts in the State were very slow to realize that they could ameliorate Autism, rather than just coping with it. Clark County School District has begun to invest in Applied Behavioral Analysis services for some of their students and, as a result, is finding it easier and less expensive to educate these students as they progress in their treatment.
3. The 2005 Nevada Legislature considered and defeated proposed measures to roll-out Autism services. In the wake of the 2005 session, Mental Health and Developmental Services (MHDS) developed an ad hoc demonstration project to help children who have Autism co-occurring with intellectual delays. The high impacts of this project convinced the 2007 Nevada Legislature to provide it with long-term funding.
4. In recognition that many children have Autism without intellectual delays, the 2007 legislature also created a companion to the MHDS program within the Office of Disability Services. This program provides virtually the same services to children who do not qualify for the MHDS program.

### Existing State Services - Recommendations

1. The programs noted above are all in desperate need of additional funding. Given the current struggles with the State budget, it is recommended that their funding be retained in 2010-11 at least at the legislatively approved levels for 2008-09.