

May 22, 2009

The Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

The Honorable Charles E. Grassley  
Ranking Member  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

**RE: Response to Affordable Care Coverage Recommendations**

Dear Chairman Baucus and Ranking Member Grassley:

The Brain Injury Association of America (BIAA) is pleased to submit written comments on the Senate Finance Committee's set of recommendations regarding policy options for health care coverage contained in the document *Expanding Health Care Coverage: Proposals to Provide Affordable Coverage to All Americans* (May 14, 2009).

As described in these comments, BIAA supports many of the proposals included in the document but is deeply concerned about the absence of benefits under the Health Insurance Exchange related to rehabilitation, which is often critical to facilitate recovery and restore functioning for persons who sustain brain injuries. National health care reform must ensure that both public as well as private health insurance systems meet the needs of persons with brain injuries in the same way that such systems meet the needs of persons with other chronic diseases (e.g., heart and lung disease). Private insurance systems should not be permitted to delay or deny treatment as a means of transferring the burden of brain injury care to taxpayers at federal, state, and local levels.

BIAA is the leading national organization serving and representing individuals, families and professionals who are touched by a life-altering, often devastating, traumatic brain injury (TBI). Together with its network of more than 40 chartered state affiliates, as well as hundreds of local chapters and support groups across the country, the BIAA provides information, education and support to assist the 1.4 million Americans who sustain a traumatic brain injury each year.

Traumatic brain injury is an established and growing public health problem across both military and civilian populations. As set forth in a recent paper prepared by BIAA [*Covering the Treatment Continuum for Persons with Brain Injury As Part of National Health Care Reform*

[http://www.biausa.org/elements/policy/2009/position\\_paper\\_treatment\\_continuum\\_and\\_reform\\_042309.pdf](http://www.biausa.org/elements/policy/2009/position_paper_treatment_continuum_and_reform_042309.pdf)], the evidence overwhelmingly demonstrates that providing post-acute rehabilitation and disease management at the appropriate time and of the appropriate scope, duration and intensity saves millions of dollars in both immediate and future health care costs. Early appropriate treatment costs less than half that of delayed treatment, rates of recovery are more than two times faster and lifetime cost of care is more than twice that of delayed treatment. Simply put, early appropriate treatment saves money.

Accordingly, BIAA believes that national health reform should address the unique health care needs of individuals with brain injury by recognizing that brain injury is the start of a lifelong disease process requiring a full continuum of medically necessary treatment, including rehabilitation, furnished by accredited programs in the most integrated appropriate treatment setting as determined in accordance with the choices and aspirations of the patient and family in concert with an interdisciplinary team of qualified and specialized clinicians.

With respect to the specific recommendations included in the Finance Committee document on coverage, BIAA is particularly supportive of many of the recommendations regarding individual and small group market reform and individual and employer mandates, as well as the recommendations related to entitlement programs, preventive services, long-term care services, and health disparities and public reporting. BIAA is deeply concerned, however, with the complete absence of any benefits under the Health Insurance Exchange related to rehabilitation therapies and related services (in both the inpatient and outpatient settings) as well as durable medical equipment and other assistive devices. BIAA believes that this failure to include rehabilitation and related services will have devastating consequences for persons sustaining brain injuries who require rehabilitation in order to facilitate their recovery and restore their functioning. Rehabilitation for persons sustaining a brain injury is equivalent to the provision of antibiotics to a person with an infection—both are essential medical interventions.

Set out below is a more detailed response to the specific recommendation related to health care benefits that would be available under the Health Insurance Exchange. With respect to proposals regarding these health care benefits as well as other proposals included in the Finance Committee paper, BIAA endorses the specific comments submitted to the committee by the Consortium of Citizens with Disabilities (CCD).

For the individual and small group markets, the Finance Committee proposal suggests the establishment of a minimum benefit requirement that covers preventive and primary care, emergency services, hospitalization, physician's services, outpatient services, day surgery and related anesthesia, diagnostic imaging and screenings, medical/surgical care, prescription drugs, radiation and chemotherapy, and mental health and substance abuse services. The proposal also suggests a requirement that each plan apply "parity" for cost-sharing treatment of conditions within each of the following categories: inpatient hospital, outpatient hospital, physician services and other items and services, including mental health services.

One of the most critical aspects of the health care reform debate for persons sustaining brain injury is the recognition of an appropriate set of benefits to meet their unique needs. BIAA is deeply distressed that the proposal fails to include rehabilitation as a core benefit. It is important to recognize that the brain is the only organ that responds to and relies on external stimulation for physiological remodeling of the neural structures that allow humans to function—to walk, talk, eat, think and feel. No pharmacologic or surgical intervention exists that will repair or replace the neural structures. Instead, they must be re-modeled through structured and consistent rehabilitation interventions.

More specifically, acute and post-acute treatment must include disease management, mitigation and prevention as well as treatment to promote neurophysiological remodeling and reorganization through physical, occupational and speech therapies and other rehabilitative interventions of sufficient scope, duration and intensity. These treatments restore maximum levels of function and reduce long-term disability and pain, rather than merely accommodating for disability. Some individuals with brain injury are able to return home directly from the hospital, but many patients need the clinically effective and cost efficient medical treatment that is primarily available from specialty rehabilitation hospitals or residential/transitional rehabilitation facilities. Depending on the individual's needs, treatment also may be provided in an outpatient setting, such as a clinic, day treatment program or at home.

Ongoing medical management is also required to achieve durable outcomes, mitigate disease progression and optimize health. These services are offered in community-based settings such as medical offices but can also be provided in group homes, supported apartments, or similar living arrangements. Evidence shows early access to intense rehabilitation, such as that available in rehabilitation hospitals and inpatient residential/transitional programs, improves the rate and extent of recovery. Conversely, delaying rehabilitation increases the cost of achieving similar levels of recovery, and withholding rehabilitation diminishes the extent of possible recovery.

Appropriate access to the treatment continuum is exemplified in the stories of people like Trisha Meili, the Central Park Jogger who was accosted and left for dead, and ABC News Journalist Bob Woodruff, who was injured by an IED blast in Iraq. With treatment of sufficient scope, duration and intensity, both were able to regain their independence and resume their roles within their families and as working professionals. Bob H., who was injured in a workplace explosion, accessed the treatment continuum and recovered from severe neurobehavioral and orthopedic disability. Without treatment, Bob faced institutionalization and a lifetime of pharmacological sedation. With treatment, he was able to return to life with his family and is able to walk, talk, and care for himself.

Others were not so fortunate.

- Dr. J., a dentist who was severely injured in a motor vehicle accident, received a total of 6 weeks of rehabilitation before being sent home severely disabled in a wheelchair, requiring full care from his wife of more than 30 years. As his disease progressed, he became

delusional and extremely violent toward his wife and family. He was psychiatrically hospitalized and sedated with medications known to cause permanent neurologic damage.

- A 17-year old girl received a total of 2 weeks of rehabilitation after a severe brain injury she sustained skateboarding behind a car in a parking lot. The medical director of the insurance company refused to authorize continued inpatient rehabilitation and she was forced into outpatient treatment in her small hometown, limited to 20 outpatient visits. When asked to authorize an internal appeal, the medical director declined and advised that the applicant “talk to somebody who cares.” She will not go on to college as was her potential with effective treatment.
- Ms. O injured by a fall received 5 years of diagnostic evaluations only following her brain injury before being allowed to receive inpatient rehabilitation services. Her treatment was stopped 30 days prior to her intended return to work would have occurred and she not only did not return to work, but regressed significantly upon her return home.
- Mrs. M sought treatment over a 5-year period for her husband, a Veteran who was injured while serving in Vietnam. An evaluation in the first year indicated he would be able to return to and maintain independent living with his wife after treatment. After waiting for authorization for treatment for 5 years, his potential dramatically declined and he now will require institutional care away from his family for the rest of his life.

Study after study demonstrates that specialized brain injury rehabilitation not only improves health and quality of life for persons with brain injury but is cost efficient. Rehabilitation is an investment that saves hundreds of millions of dollars for patients and taxpayers. For example:

- A single patient with severe neurobehavioral disorders who received comprehensive rehabilitation realized a savings of \$4.8 million to \$6 million in the lifetime cost of care after subtracting the cost of rehabilitation programming.
- The cost of supporting 76 patients in community settings was reduced by more than \$1.48 million per person after each received six months of neurorehabilitation.
- Post-acute rehabilitation resulted in 20-year cost-of-care reductions ranging from \$1 million to \$4.8 million per person for the majority of 112 patients who had been previously placed in chronic care settings.
- The weekly cost of care for 297 patients with severe brain injury was reduced by one-third following rehabilitation; the cost of rehabilitation was recovered within 16 to 38 months.
- Patients treated in specialized brain injury residential rehabilitation settings demonstrated improvements in levels of care, functional ability and performance of social roles; the costs of rehabilitation were offset within two years and the lifetime savings ranged from \$5.3 thousand to \$1.48 million per patient.

In sum, the failure by policymakers to cover rehabilitation for persons with brain injury as part of national health care reform would be tantamount to medical malpractice by a doctor who knowingly fails to provide medically necessary health care to his or her patient. For persons with a brain injury, the promise of health care reform must include the provision of appropriate

rehabilitation that facilitates their recovery and restores their ability to function and live as independently as possible. We agree with CCD that rehabilitation benefits “are not luxuries or convenience items. They are basic elements of health care coverage for people with disabilities and chronic conditions.” The provision of medically necessary rehabilitation and related services is also an investment that saves hundreds of millions of dollars for patients and taxpayers. Early appropriate treatment, including rehabilitation, costs less than half that of delayed treatment and rates of recovery are more than two times faster. Simply put, early appropriate treatment saves money in the long run. BIAA believes that Congress must explicitly require coverage of rehabilitation therapies and related services as part of national health insurance.

Thank you for your consideration of our views. If you have any questions, please contact Sarah D’Orsie, BIAA’s Director of Government Affairs, at 703-761-0750 ext. 637 or via e-mail to [sdorsie@biausa.org](mailto:sdorsie@biausa.org).

Sincerely,

A handwritten signature in black ink that reads "Susan H. Connors". The signature is written in a cursive, flowing style.

Susan H. Connors  
President/CEO