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Livengood: Paralyzed child's story shows how Michigan's no fault reforms endanger care

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Milford — Brandi Marsh held a school workbook up for her daughter, Annabelle, and used her finger to trace the path to writing the letter H.

“To do an H, we’re going to do one line down and one other line down, and then you’re going to do one short line that connects these two,” the mother said.

Annabelle clenched her teeth down on a mouthguard-like device connected to a stick with a felt-tip marker at the other end.

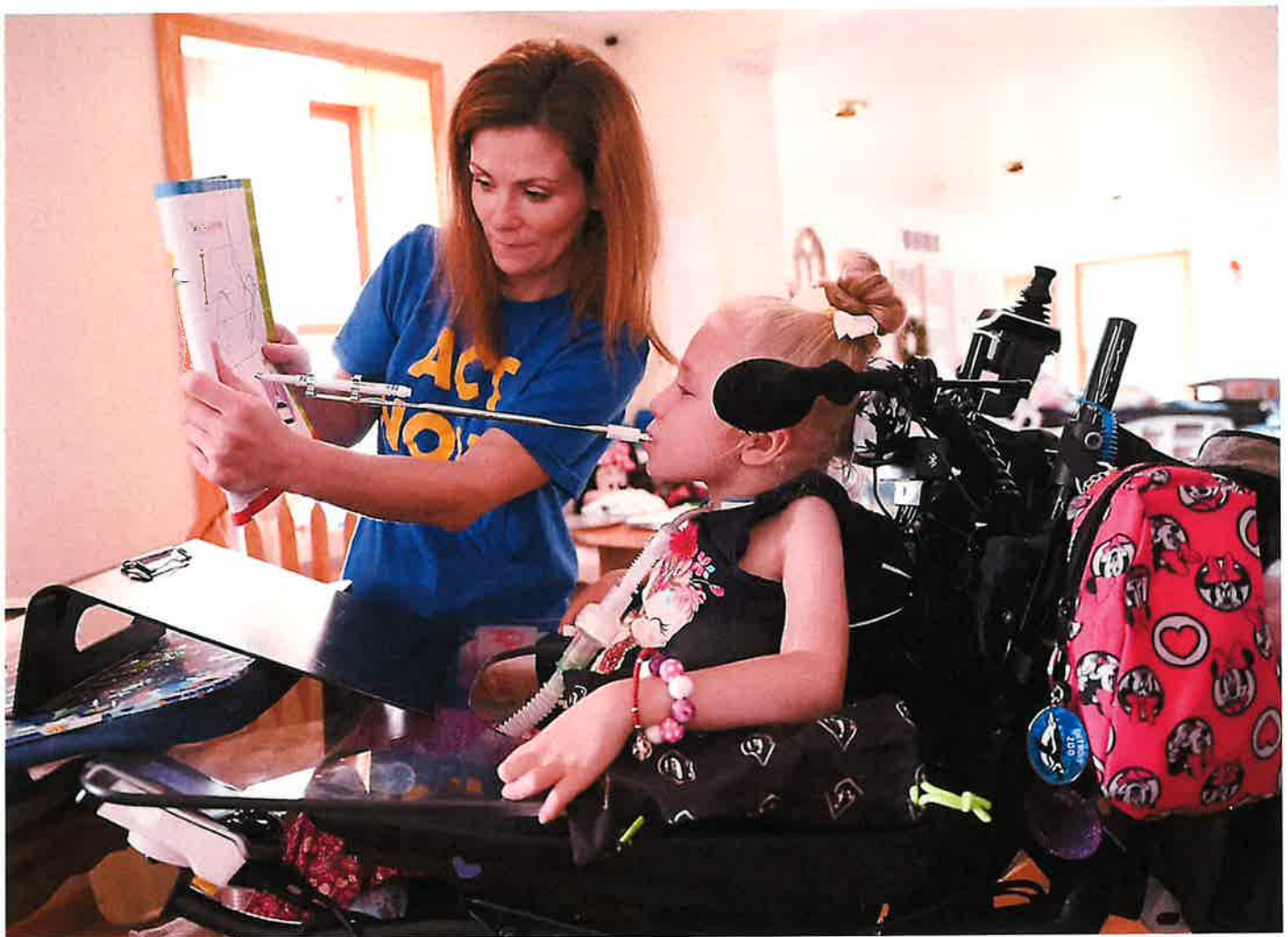


Chad
Livengood

The little girl, who is paralyzed from the neck down, lifted her chin, placed the marker on the page and began to draw the first stroke of the seventh letter of the alphabet. Then, the second. And finally, the horizontal line connecting the two vertical markings on the page.

“Yay, you did it,” her mother cheered.

For a child who turns 6 years old today, on Thanksgiving Day, this was meaningful progress. A child whose life was almost snatched away at age 3 when she was in a horrific car accident on Feb. 4, 2021. A child who breathes with the assistance of a ventilator and uses her head to steer her wheelchair. A child who lost her ability to walk before she could even learn to ride a bike.



Annabelle Marsh uses a mouth stick device to write letters during a lesson with her mom, Brandi Marsh, on Nov. 9 in their Milford home. Annabelle was severely injured in a car crash in February 2021.

But meaningful progress in the care of catastrophic car crash survivors like Annabelle Marsh comes at a cost — and draconian changes to how Michigan takes care of its most vulnerable residents have left her long-term care in doubt and her family in a near-constant crisis.

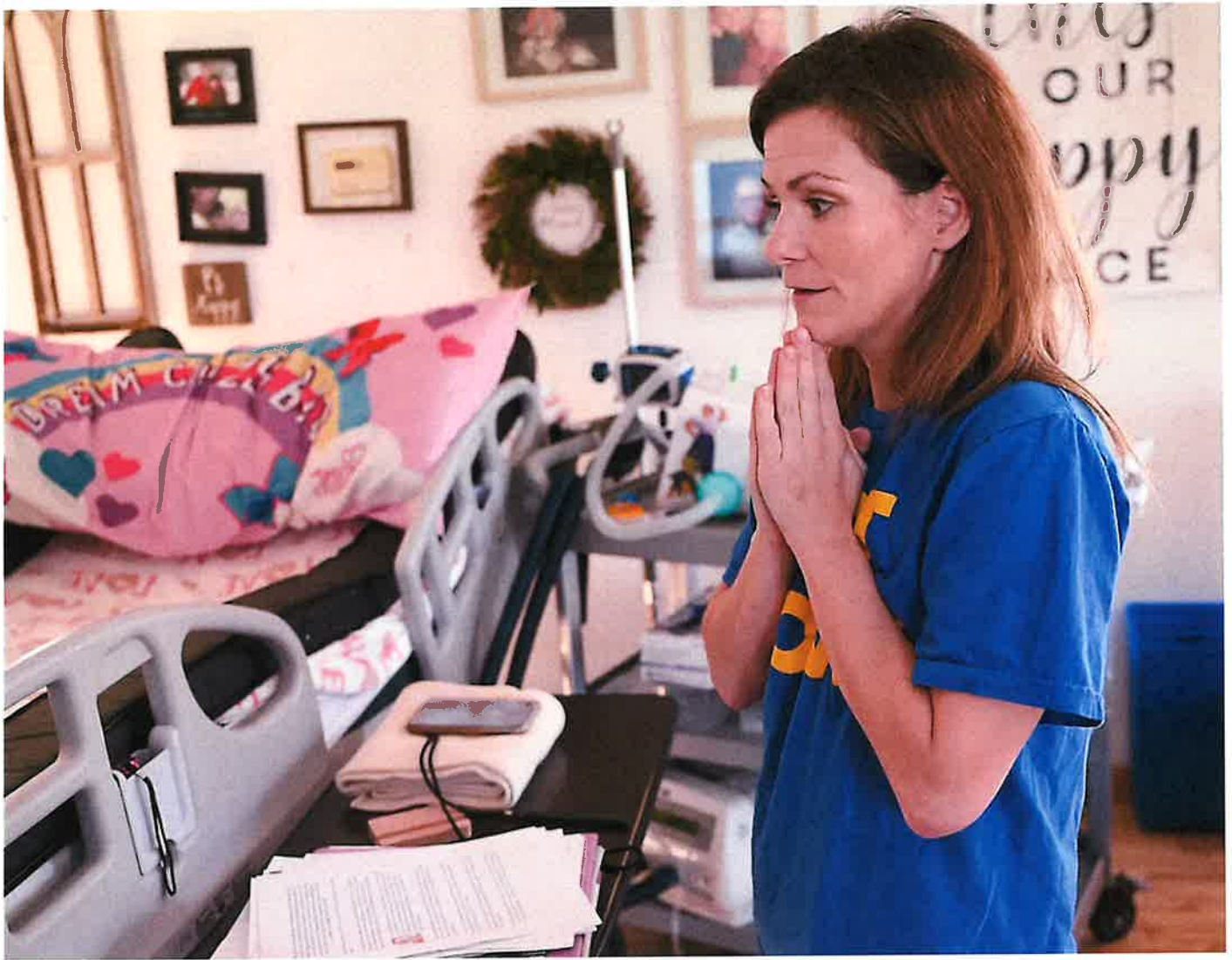
"Something's got to change or it's not good for their future," said Lindsey Tobin, one of Annabelle's nurses who specializes in care for paralyzed car crash survivors.

As a quadriplegic, Annabelle requires around-the-clock care. When Annabelle's quadriplegia causes her body to spasm, Tobin said, the ventilator hose connected to the windpipe in her neck can break loose, endangering her already fragile life.

If Annabelle's ventilator fails, she has 15 minutes to live, according to her nurses.

When a paid — and alert — aide isn't standing guard at her bedside at night, Annabelle's 35-year-old mother is, sometimes going days without a consistent sleep schedule, especially if a nurse or aide doesn't show up the next morning.

"I'm so tired all of the time," Brandi Marsh said. "I've never felt this exhaustion ..., and we're going to be stuck in this house more and more and more until we are forgotten about."



Brandi Marsh, 35, paused to collect her thoughts while talking about a 2019 law that imposed cost controls on medical care for injured motorists like her daughter, Annabelle, who turns six on Thanksgiving Day. "There's nothing short and simple about our life. Not from the time we wake to the time we go to bed. There's no stability," Marsh said.

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About 17,000 Michigan residents live with a catastrophic car crash injury. The circumstances surrounding Annabelle's day-to-day care are as dire as they get, advocates say.

A law Gov. Gretchen Whitmer signed in 2019 imposed a 45% pay cut on home care companies in July 2021, six months before Annabelle's accident. The Michigan Supreme Court in July ruled anyone injured before June 11, 2019 — the day the law went into effect — is not subject to the cost controls.

But that 45% pay cut remains in place for the caregivers of anyone injured after June 11, 2019, regardless of the fact that auto insurance companies continue to sell motorists policies with "unlimited" medical coverage.

The government-dictated pricing has limited access to care, leaving home care companies with the untenable choice of either reducing hours for auto accident victims like Annabelle or dropping them altogether.

The cost of care

AdvisaCare, the Grand Rapids-based home care company that sends nurses and aides to the Marsh home in Milford each day, has lost more than \$1.3 million caring for Annabelle since May 2021, said Kris Skogen, founder and CEO of AdvisaCare.

Since July 2021, when the 45% pay cuts went into effect, home care agencies have routinely struggled to get paid by insurers, which have resorted to using a byzantine system of billing to gum up what used to be a mostly smooth transaction, according to Skogen and other medical providers.

Most of the \$1.3 million that AdvisaCare has lost is because State Farm Insurance Co.'s reimbursements don't actually cover the hourly wages, benefits and payroll taxes of registered nurses and certified nursing assistants, much less compensate the company for its management and overhead expenses, Skogen said.



AdvisaCare nurse Lindsey Tobin, left, shares a laugh with Annabelle Marsh. Tobin is part of a team of nurses and aides who care for Annabelle. Her company says it has lost \$1.3 million since May 2021 providing care for Annabelle because of a 2019 law that lets State Farm Insurance Co. pay the company 55% of what it charged patients in January 2019.

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In the simplest terms, if AdvisaCare charges \$80 an hour to provide a registered nurse for Annabelle's care, State Farm is reimbursing AdvisaCare about \$44 an hour (55%) for a nurse whose hourly wage commands \$50 in this market (plus fringe benefits and taxes). A Senate-passed bill would set the payment for registered nurses at \$86.56 per hour, a figure based on an industry-wide survey of charges.

Since Annabelle requires 24-hour care, the uncompensated cost "adds up in a hurry," said Stephen Hulst, a Grand Rapids attorney representing AdvisaCare in a federal lawsuit against State Farm.

Without AdvisaCare shouldering the costs of Annabelle's care at home, she might be forced to live in a nursing home, her mother said.

"I mean, it's crazy to think you'd let that happen to a young child," Hulst said. "But it's happening to all sorts of folks who are quadriplegics and similarly need someone there 24-7 who can't find the care."

A State Farm spokeswoman said it would be "inappropriate to comment" on its ongoing litigation with AdvisaCare.

"State Farm is administering Annabelle's benefits as required by and in accordance with the No-Fault statute," company spokeswoman Kim Kaufman said in a statement to The Detroit News.

“

I mean, it's crazy to think you'd let that happen to a young child. But it's happening to all sorts of folks who are quadriplegics and similarly need someone there 24-7 who can't find the care."

Attorney Stephen Hulst, representing AdvisaCare in a suit against State Farm

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Paralyzed child's story shows how Michigan's no fault reforms endanger care

5-year-old girl Annabelle Marsh was paralyzed in a Feb. 4, 2021, crash with her mom and older brother. Annabelle suffered a spinal cord injury and is a quadriplegic. She has a trachea in her throat and requires a ventilator to breathe.

More: [Livengood: Paralyzed man dies 90 minutes before Michigan court restores his home care](#)

Skogen took on Annabelle as a patient in May 2021, two months before the cost controls went into place, knowing he may not get fully reimbursed for his costs for a while. At the time, he and others thought a Republican-controlled Legislature would see the error of its ways and undo the damage it was doing to people who often can't speak for themselves.

The Republicans let the 2019 law stand without making any changes. The Michigan Supreme Court also let the law stand for motorists injured after it took effect.

Then, Skogen and other small business owners spent this year lobbying a Democratic-controlled Legislature to fix the reimbursement model so that companies like his could provide the care that Annabelle's doctors have prescribed.

That legislation, passed by the Democratic-controlled Senate and opposed by the Whitmer administration, stalled out in the House earlier this month before lawmakers adjourned early for the year so that a new law changing the date of Michigan's 2024 presidential primary can go into effect.

Skogen feels like he has no choice but to keep sending nurses to the Marsh home in Milford.

A little girl's life is in the balance.

“We just have to shoulder it as needed for the inherent safety of this young lady,” Skogen said. “We certainly don’t want to put her care or life at risk.”

As one of the state's largest home health care companies with 3,000 patients across Michigan, Arizona and Nevada, AdvisaCare has the cash flow to shoulder losses from a few clients, Skogen said.

“It puts a strain on our organization, but we are and will always be in Annabelle’s corner,” Skogen said. “That’s one thing Brandi can count on.”

But Skogen isn't running a charity. And his company has been forced to turn away new patients that call each week, looking for home care services in an industry that's forced to spurn more auto accident survivors because the reimbursement rates are money losers.

“We cannot afford to bring on any more (patients) until this is resolved,” Skogen said.

AdvisaCare's federal lawsuit against State Farm has made incremental progress in the courts. It involves unpaid bills for the care of Annabelle and 45 other injured motorists who get services from AdvisaCare and its affiliated business, Rebound Home & Community Therapy.



Annabelle's hospital bed is set up in her grandfather's living room, a makeshift arrangement because the Milford home lacks any ground-floor bedrooms. The family has held off asking its auto insurance company, State Farm, to pay for modifications to the home or a different home until they can get Annabelle's long-term care secured, Brandi Marsh said.

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But in court filings to date, State Farm has effectively argued it is following the 2019 law's prescribed haircut for medical providers. In one filing, AdvisaCare argued that State Farm is "legally obligated to fully and timely pay plaintiffs for the rehabilitation and therapy services provided to the Individuals."

"Denied as untrue," State Farm attorney Jordan A. Wiener wrote in a response. "Defendants further state that this allegation mischaracterizes the compensability requirements of the no-fault act and the payment obligations of a no-fault insurer."

It's unclear how long it will take to resolve the case and give Annabelle's family some certainty.

"I think their goal is to drag it out and wear out the providers," Skogen said.

A fragile life

While the legal and political battles drag on, the daily challenges of caring for a high-need quadriplegic compound.

On a recent day in mid-October, Annabelle's ventilator tube disconnected. Her nurse quickly reconnected it to the machine that helps her breathe. It's an emergency that plays out often, Brandi Marsh said.

"They lost money today, but they also saved Annabelle's life today," the mother said as she started to cry. "I can't thank them enough for how many times they've saved Annabelle's life."

Annabelle also has several cardiac problems that put her at risk of having a heart attack, her mother said. She suffers from bradycardia (a slower-than-normal heart rate) and autonomic dysreflexia, where her blood pressure can skyrocket.

One night in early October, Marsh was alone at home without a nurse or aide for Annabelle when the girl's heart rate slowed, and the mom needed to quickly change her daughter's trachea to improve her breathing and heart rate. The only person home was Marsh's 11-year-old son, Karson.

"My son had to help me save her life," Marsh said. "That's very hard on an 11-year-old boy."

Managing all of these medical conditions stemming from Annabelle's accident requires more than one set of hands, particularly in the morning, or else Marsh becomes the mom, the aide and the nurse.

"You have to be an octopus to save somebody's life, almost. At least Annabelle's," Marsh said.

With such a fragile life, there seem to be constant setbacks.

But there are also promising signs that Annabelle can live a meaningful life.

She's made good progress learning how to draw her letters and numbers using the mouth sticks, according to Tobin, the AdvisaCare nurse.



Annabelle Marsh, 6, uses her tongue to control a mouth stuck to select alphabet cards during a spelling activity with her mom, Brandi Marsh, 35, inside their Milford home.

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The devices make speaking difficult. But they let Annabelle do something her hands and arms can't: communicate with the written word or pick up a playing card.

"It's going to be her sole form of writing when she's older," Tobin said. "So, at this age, it's hard to get the hang of it. But she's already exceeding what she's supposed to be doing."

Championing her own cause

Like anyone else, Annabelle just wants the ability to do the same things other children her age can do that she lost at such a young age. The uncertainty and instability in daily care are affecting Annabelle's ability to be in school, her mom said.

And though the no-fault law will pay for home modifications so Annabelle's hospital bed doesn't have to be parked in her grandfather Mike Marsh's living room, the family wants to get her long-term care secured first.

"There's no stability," Brandi Marsh said.

Despite all that's happened in her short life, Annabelle is a remarkably cheerful kid. She has a deep faith in God, according to her mother, and has become an advocate for her own cause.

Annabelle is inquisitive and chats up strangers. Some describe her as an old soul.



Vladimir Konstantinov, the Detroit Red Wings defenseman who was paralyzed in a 1997 car crash, poses for a photo with Annabelle Marsh, a 6-year-old Milford girl who suffered a spinal cord injury in a February 2021 car accident. Konstantinov and Annabelle both depend upon Michigan's no-fault auto insurance law for their long-term medical care.

BRANDI MARSH

Over the past two years, Brandi Marsh has taken Annabelle to the Michigan Capitol multiple times to meet with lawmakers personally. In Lansing, she has befriended several legislators who have bothered to stop and talk to her and her mom, including Sen. John Damoose, a Harbor Springs Republican.

She always seems to be smiling.

"And it's a beautiful smile," Damoose said recently.

On Halloween, Annabelle came to the Capitol dressed like any other 5-year-old girl: She was Elsa from Disney's "Frozen."

"I'll freeze this reform," she told her mom.

Every time Brandi Marsh takes Annabelle to the Capitol to personally meet with lawmakers, it's a herculean task to transport her, an aide and a van-load of medical equipment and supplies to Lansing, where they have to get a hotel in order to be at committee hearings on time.

During one visit, Annabelle posed for a picture alongside Vladimir Konstantinov, the Detroit Red Wings defenseman who was paralyzed in a 1997 limousine wreck less than a week after the Wings won the Stanley Cup. Until the Supreme Court reversed the cuts to his caregivers, Konstantinov's daily care in his West Bloomfield Township condo was sustained by charitable donations.

At an Oct. 3 rally for auto accident survivors on the Capitol steps, Annabelle's mom held a microphone up for her daughter to address the crowd.

"We're going to change the law before I get out of kindergarten," Annabelle said.

A poison pill

More than two-thirds of the Democratic-controlled Michigan Senate agreed the post-2021 payment rates to medical providers need to be increased to ensure car crash survivors can get access to the care they're paying for.

Whitmer's Department of Insurance and Financial Services disagreed, opposing the legislation and calling for a "narrower solution."

This stemmed, in part, from the bill giving hospitals a boost in payments for treating auto injuries. Whitmer has said for years she supports a "fix" to the payment structure for long-term care. Hospitals typically see auto accident victims on the front end.

That Senate provision for the hospitals proved to be a poison pill in the House, where Democrats are wary of risking their majority. They seem to fear that auto insurers will jack up premiums if they're forced to pay medical providers more to care for the Annabelles of this state.

But a 45% pay cut to the providers of medical care for the state's most vulnerable residents is a business model, dictated by the Michigan Legislature, that's designed to fail, critics say.

"Imagine anything in this world that costs 55% of what it did a year before COVID," Damoose said.

Damoose was one of four Republicans who joined Democrats in voting to increase the home care rates to be in line with industry averages.

A narrower solution might be for the House to cut the hospitals out of the bill and focus squarely on keeping residents like Annabelle in their homes.

Damoose mentioned Annabelle during an impassioned speech on Oct. 19 on the Senate floor, arguing in favor of undoing the damage lawmakers have caused.

"If we can't come together to help these people, truly among the most desperate in our society, I'm not sure anything else we do really matters," Damoose said.

Only the Legislature can fix what it has broken for Annabelle and the thousands like her who are suffering the consequences of this reckless law.

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MICHIGAN SENATE
TV SCREENSHOT