

JAN 23 2015

A BILL FOR AN ACT

RELATING TO AUTISM SPECTRUM DISORDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to ensure the
2 provision of quality health care by requiring insurance coverage
3 for the diagnosis and treatment of autism.

4 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
5 amended by adding a new section to article 10A to be
6 appropriately designated and to read as follows:

7 **"§431:10A- Autism benefits and coverage; notice;**
8 **definitions.** (a) Each individual or group accident and health
9 or sickness insurance policy issued or renewed in this State
10 after January 1, , shall provide to the policyholder and
11 individuals under eleven years of age covered under the policy
12 coverage for the diagnosis and treatment of autism.

13 (b) This section shall not apply to accident-only,
14 medicare, medicare supplement, student accident and health or
15 sickness insurance, dental-only, and vision-only policies or
16 policies or renewals of six months or less.



1 (c) Every insurer shall provide written notice to its
2 policyholders regarding the coverage required by this section.
3 The notice shall be in writing and prominently positioned in any
4 literature or correspondence sent to policyholders and shall be
5 transmitted to policyholders within calendar year 2016 when
6 annual information is made available to members or in any other
7 mailing to members, but in no case later than December 31, 2016.

8 (d) As determined by the insurance commissioner, coverage
9 for treatment provided under this section shall be subject to a
10 maximum benefit of:

11 (1) \$30,000 per year for services for a maximum of four
12 years between the ages of three to nine; or

13 (2) \$30,000 per year for services for children ages zero
14 to six and \$25,000 per year for services for children
15 ages seven to ten;

16 provided that limits shall be evidence-based. This section
17 shall not be construed as limiting benefits that are otherwise
18 available to an individual under an accident and health or
19 sickness insurance policy. Payments made by an insurer on
20 behalf of a covered individual for any care, treatment,
21 intervention, or service other than behavioral health treatment



1 shall not be applied toward any maximum benefit established
2 under this subsection.

3 (e) Coverage under this section may be subject to
4 copayment, deductible, and coinsurance provisions of an accident
5 and health or sickness insurance policy that are no less
6 favorable than the co-payment, deductible, and coinsurance
7 provisions for other medical services covered by the policy.

8 (f) Treatment for autism requests shall include a
9 treatment plan. Except for inpatient services, if an individual
10 is receiving treatment for autism, an insurer may request a
11 review of the treatment plan for continued authorization of
12 coverage for treatment for autism at the insurer's discretion.

13 (g) The medical necessity of treatment covered by this
14 section shall be determined pursuant to the policy and shall be
15 defined in the policy in a manner that is consistent with other
16 services covered under the policy. Except for inpatient
17 services, if an individual is receiving treatment for autism, an
18 insurer may request a review of the medical necessity of that
19 treatment at the insurer's discretion.

20 (h) This section shall not be construed as reducing any
21 obligation to provide services to an individual under any



1 publicly funded program, an individualized family service plan,
2 an individualized education program, or an individualized
3 service plan.

4 (i) Coverage under this section shall exclude coverage
5 for:

6 (1) Care that is custodial in nature;

7 (2) Services and supplies that are not clinically
8 appropriate;

9 (3) Services provided by family or household members;

10 (4) Treatments considered experimental; and

11 (5) Services provided outside of the State.

12 (j) As of January 1, 2016, even if this section may
13 require benefits that exceed the essential health benefits
14 specified under section 1302(b) of the Patient Protection and
15 Affordable Care Act of 2010 (P.L. 111-148), the specific
16 benefits that exceed the specified essential health benefits
17 shall be required of all qualified health plans offered in this
18 State.

19 (k) Insurers shall include in their network of approved
20 autism service providers only those providers who have cleared



1 state and federal criminal background checks as determined by
2 the insurer.

3 (l) If an individual has been diagnosed as having autism
4 meeting the diagnostic criteria described in the Diagnostic and
5 Statistical Manual of Mental Disorders available at the time of
6 diagnosis, upon publication of a more recent edition of the
7 Diagnostic and Statistical Manual of Mental Disorders, that
8 individual shall be required to undergo repeat evaluation to
9 remain eligible for coverage under this section.

10 (m) Treatment for autism shall not be covered pursuant to
11 this section unless provided by an autism service provider that
12 is licensed by a state licensure board. If a state licensure
13 board that licenses providers to provide autism services is
14 unavailable, the autism service provider shall:

15 (1) Be certified by the Behavior Analyst Certification
16 Board, Inc.; provided that certification by the
17 Behavior Analyst Certification Board, Inc., shall be
18 valid for purposes of this subsection for no more than
19 one year; or

20 (2) Meet any existing credentialing requirements
21 determined by the insurer.



1 (n) As used in this section, unless the context clearly
2 requires otherwise:

3 "Applied behavior analysis" means the design,
4 implementation, and evaluation of environmental modifications,
5 using behavioral stimuli and consequences, to produce socially
6 significant improvement in human behavior, including the use of
7 direct observation, measurement, and functional analysis of the
8 relations between environment and behavior.

9 "Autism" has the same meaning as defined by the most recent
10 edition of the Diagnostic and Statistical Manual of Mental
11 Disorders.

12 "Autism service provider" means any person, entity, or
13 group that provides treatment for autism, has education and
14 training in applied behavior analysis, and meets the minimum
15 requirements pursuant to subsection (m).

16 "Behavioral health treatment" means evidence based
17 counseling and treatment programs, including applied behavior
18 analysis, that are:

19 (1) Necessary to develop, maintain, or restore, to the
20 maximum extent practicable, the functioning of an
21 individual; and



1 (2) Provided or supervised by an autism service provider.

2 "Diagnosis of autism" means medically necessary
3 assessments, evaluations, or tests conducted to diagnose whether
4 an individual has autism.

5 "Pharmacy care" means medications prescribed by a licensed
6 physician or registered nurse practitioner and any health-
7 related services that are deemed medically necessary to
8 determine the need or effectiveness of the medications.

9 "Psychiatric care" means direct or consultative services
10 provided by a licensed psychiatrist.

11 "Psychological care" means direct or consultative services
12 provided by a licensed psychologist.

13 "Therapeutic care" means services provided by licensed
14 speech pathologists, registered occupational therapists,
15 licensed social workers, licensed clinical social workers, or
16 licensed physical therapists.

17 "Treatment for autism" includes the following care
18 prescribed or ordered for an individual diagnosed with autism by
19 a licensed physician, psychiatrist, psychologist, licensed
20 clinical social worker, or registered nurse practitioner if the
21 care is determined to be medically necessary:



- 1 (1) Behavioral health treatment;
- 2 (2) Pharmacy care;
- 3 (3) Psychiatric care;
- 4 (4) Psychological care; and
- 5 (5) Therapeutic care."

6 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
7 amended by adding a new section to article 1 to be appropriately
8 designated and to read as follows:

9 **"§432:1- Autism benefits and coverage; notice;**

10 **definitions.** (a) Each hospital and medical service policy
11 issued or renewed in this State after January 1, , shall
12 provide to the member and individuals under eleven years of age
13 covered under the policy coverage for the diagnosis and
14 treatment of autism.

15 (b) This section shall not apply to accident-only,
16 medicare, medicare supplement, student accident and health or
17 sickness insurance, dental-only, and vision-only policies or
18 policies or renewals of six months or less.

19 (c) Every mutual benefit society shall provide written
20 notice to its members regarding the coverage required by this
21 section. The notice shall be in writing and prominently



1 positioned in any literature or correspondence sent to members
2 and shall be transmitted to members within calendar year 2016
3 when annual information is made available to members or in any
4 other mailing to members, but in no case later than December 31,
5 2016.

6 (d) As determined by the insurance commissioner, coverage
7 for treatment provided under this section shall be subject to a
8 maximum benefit of:

9 (1) \$30,000 per year for services for a maximum of four
10 years between the ages of three to nine; or

11 (2) \$30,000 per year for services for children ages zero
12 to six and \$25,000 per year for services for children
13 ages seven to ten;

14 provided that limits shall be evidence-based. This section
15 shall not be construed as limiting benefits that are otherwise
16 available to a member under a hospital and medical service
17 policy. Payments made on behalf of a member for any care,
18 treatment, intervention, or service other than behavioral health
19 treatment shall not be applied toward any maximum benefit
20 established under this subsection.



1 (e) Coverage under this section may be subject to
2 copayment, deductible, and coinsurance provisions of a policy
3 that are no less favorable than the co-payment, deductible, and
4 coinsurance provisions for other medical services covered by the
5 policy.

6 (f) Treatment for autism requests shall include a
7 treatment plan. Except for inpatient services, if an individual
8 is receiving treatment for autism, a mutual benefit society may
9 request a review of the treatment plan for continued
10 authorization of coverage for treatment for autism at the mutual
11 benefit society's discretion.

12 (g) The medical necessity of treatment covered by this
13 section shall be determined pursuant to the policy and shall be
14 defined in the policy in a manner that is consistent with other
15 services covered under the policy. Except for inpatient
16 services, if an individual is receiving treatment for autism, a
17 mutual benefit society may request a review of the medical
18 necessity of that treatment at the society's discretion and at
19 the society's expense.

20 (h) This section shall not be construed as reducing any
21 obligation to provide services to an individual under any



1 publicly funded program, an individualized family service plan,
2 an individualized education program, or an individualized
3 service plan.

4 (i) Coverage under this section shall exclude coverage
5 for:

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7 (2) Services and supplies that are not clinically
8 appropriate;

9 (3) Services provided by family or household members;

10 (4) Treatments considered experimental; and

11 (5) Services provided outside of the State.

12 (j) As of January 1, 2016, even if this section may
13 require benefits that exceed the essential health benefits
14 specified under section 1302(b) of the Patient Protection and
15 Affordable Care Act of 2010 (P.L. 111-148), the specific
16 benefits that exceed the specified essential health benefits
17 shall be required of all qualified health plans offered in this
18 State.

19 (k) Mutual benefit societies shall include in their
20 network of approved autism service providers only those



1 providers who have cleared state and federal criminal background
2 checks as determined by the society.

3 (1) If an individual has been diagnosed as having autism
4 meeting the diagnostic criteria described in the Diagnostic and
5 Statistical Manual of Mental Disorders available at the time of
6 diagnosis, upon publication of a more recent edition of the
7 Diagnostic and Statistical Manual of Mental Disorders, that
8 individual shall be required to undergo repeat evaluation to
9 remain eligible for coverage under this section.

10 (m) Treatment for autism shall not be covered pursuant to
11 this section unless provided by an autism service provider that
12 is licensed by a state licensure board. If a state licensure
13 board that licenses providers to provide autism services is
14 unavailable, the autism service provider shall:

15 (1) Be certified by the Behavior Analyst Certification
16 Board, Inc.; provided that certification by the
17 Behavior Analyst Certification Board, Inc., shall be
18 valid for purposes of this subsection for no more than
19 one year; or

20 (2) Meet any existing credentialing requirements
21 determined by the insurer.



1 (n) As used in this section, unless the context clearly
2 requires otherwise:

3 "Applied behavior analysis" means the design,
4 implementation, and evaluation of environmental modifications,
5 using behavioral stimuli and consequences, to produce socially
6 significant improvement in human behavior, including the use of
7 direct observation, measurement, and functional analysis of the
8 relations between environment and behavior.

9 "Autism" has the same meaning as defined by the most recent
10 edition of the Diagnostic and Statistical Manual of Mental
11 Disorders.

12 "Autism service provider" means any person, entity, or
13 group that provides treatment for autism, has education and
14 training in applied behavior analysis, and meets the minimum
15 requirements pursuant to subsection (m).

16 "Behavioral health treatment" means evidence based
17 counseling and treatment programs, including applied behavior
18 analysis, that are:

19 (1) Necessary to develop, maintain, or restore, to the
20 maximum extent practicable, the functioning of an
21 individual; and



1 (2) Provided or supervised by an autism service provider.

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4 an individual has autism.

5 "Pharmacy care" means medications prescribed by a licensed
6 physician or registered nurse practitioner and any health-
7 related services that are deemed medically necessary to
8 determine the need or effectiveness of the medications.

9 "Psychiatric care" means direct or consultative services
10 provided by a licensed psychiatrist.

11 "Psychological care" means direct or consultative services
12 provided by a licensed psychologist.

13 "Therapeutic care" means services provided by licensed
14 speech pathologists, registered occupational therapists,
15 licensed social workers, licensed clinical social workers, or
16 licensed physical therapists.

17 "Treatment for autism" includes the following care
18 prescribed or ordered for an individual diagnosed with autism by
19 a licensed physician, psychiatrist, psychologist, licensed
20 clinical social worker, or registered nurse practitioner if the
21 care is determined to be medically necessary:



- 1 (1) Behavioral health treatment;
- 2 (2) Pharmacy care;
- 3 (3) Psychiatric care;
- 4 (4) Psychological care; and
- 5 (5) Therapeutic care."

6 SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§432D-23 Required provisions and benefits.**

9 Notwithstanding any provision of law to the contrary, each
10 policy, contract, plan, or agreement issued in the State after
11 January 1, 1995, by health maintenance organizations pursuant to
12 this chapter, shall include benefits provided in sections
13 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
14 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
15 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~
16 ~~122, and 431:10A-116.2,~~] and 431:10A- , and chapter 431M."

17 SECTION 5. Notwithstanding section 432D-23, Hawaii Revised
18 Statutes, the coverage and benefit for autism to be provided by
19 a health maintenance organization under section 4 of this Act
20 shall apply to all policies, contracts, plans, or agreements



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1 issued or renewed in this State by a health maintenance
2 organization after January 1, .

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2015.

6

INTRODUCED BY:

John M. ...

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Russell F. ...

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S.B. NO. 791

Report Title:

Autism; Mandatory Health Coverage

Description:

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism diagnosis and treatment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

