
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 years of age and under covered under the policy
12 coverage for the diagnosis and treatment of autism.

13 (b) This section shall not apply to disability, accident-
14 only, medicare, medicare supplement, student accident and health
15 or 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 policyholders or in any
7 other mailing to policyholders, but in no case later than
8 December 31, 2016.

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

12 (1) \$ _____ per year for services for a maximum of four
13 years for children between the ages of _____ to _____ ;

14 or

15 (2) \$ _____ per year for services for children ages
16 to _____ and \$ _____ per year for services for
17 children ages _____ to _____ ;

18 provided that limits shall be evidence-based. This section
19 shall not be construed as limiting benefits that are otherwise
20 available to an individual under an accident and health or
21 sickness insurance policy. Payments made by an insurer on



1 behalf of a covered individual for any care, treatment,
2 intervention, or service other than applied behavioral analysis
3 shall not be applied toward any maximum benefit established
4 under this subsection.

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

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

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



1 treatment at the insurer's discretion and at the insurer's
2 expense.

3 (h) This section shall not be construed as reducing any
4 obligation to provide services to an individual under any
5 publicly funded program, an individualized family service plan,
6 an individualized education program, or an individualized
7 service plan.

8 (i) Coverage under this section shall exclude coverage
9 for:

- 10 (1) Care that is custodial in nature;
- 11 (2) Services and supplies that are not clinically
12 appropriate;
- 13 (3) Services provided by family or household members;
- 14 (4) Treatments considered experimental; and
- 15 (5) Services provided outside of the State.

16 (j) As of January 1, 2016, even if this section may
17 require benefits that exceed the essential health benefits
18 specified under section 1302(b) of the Patient Protection and
19 Affordable Care Act of 2010 (P.L. 111-148), the specific
20 benefits that exceed the specified essential health benefits



1 shall be required of all qualified health plans offered in this
2 State.

3 (k) Insurers shall include in their network of approved
4 autism service providers only those providers who have cleared
5 state and federal criminal background checks as determined by
6 the insurer.

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

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

19 (1) Be certified by the Behavior Analyst Certification
20 Board, Inc.; provided that certification by the
21 Behavior Analyst Certification Board, Inc., shall be



1 valid for purposes of this subsection for no more than
2 one year; or

3 (2) Meet any existing credentialing requirements
4 determined by the insurer.

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

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

13 "Autism" has the same meaning as defined by the most recent
14 edition of the Diagnostic and Statistical Manual of Mental
15 Disorders.

16 "Autism service provider" means any person, entity, or
17 group that provides treatment for autism and meets the minimum
18 requirements pursuant to subsection (m).

19 "Diagnosis of autism" means medically necessary
20 assessments, evaluations, or tests conducted to diagnose whether
21 an individual has autism.



1 "Habilitative services" means evidence based counseling and
2 treatment programs, including applied behavior analysis, that
3 are:

4 (1) Necessary to develop, maintain, or restore, to the
5 maximum extent practicable, the functioning of an
6 individual; and

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

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

12 "Psychiatric care" means direct or consultative services
13 provided by a licensed psychiatrist.

14 "Psychological care" means direct or consultative services
15 provided by a licensed psychologist.

16 "Therapeutic care" means services provided by licensed
17 speech pathologists, registered occupational therapists,
18 licensed social workers, licensed clinical social workers, or
19 licensed physical therapists.

20 "Treatment for autism" includes the following care
21 prescribed or ordered for an individual diagnosed with autism by



1 a licensed physician, psychiatrist, psychologist, licensed
2 clinical social worker, or registered nurse practitioner if the
3 care is determined to be medically necessary:

- 4 (1) Habilitative services;
- 5 (2) Pharmacy care;
- 6 (3) Psychiatric care;
- 7 (4) Psychological care; and
- 8 (5) Therapeutic care."

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

12 "§432:1- Autism benefits and coverage; notice;
13 definitions. (a) Each hospital and medical service plan
14 contract issued or renewed in this State after January 1, _____,
15 shall provide to the member and individuals _____ years of age
16 and under covered under the plan contract coverage for the
17 diagnosis and treatment of autism.

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

1 (c) Every mutual benefit society shall provide written
 2 notice to its members regarding the coverage required by this
 3 section. The notice shall be in writing and prominently
 4 positioned in any literature or correspondence sent to members
 5 and shall be transmitted to members within calendar year 2016
 6 when annual information is made available to members or in any
 7 other mailing to members, but in no case later than December 31,
 8 2016.

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

12 (1) \$ _____ per year for services for a maximum of four
 13 years for children between the ages of _____ to _____ ;

14 or

15 (2) \$ _____ per year for services for children ages
 16 to _____ and \$ _____ per year for services for
 17 children ages _____ to _____ ;

18 provided that limits shall be evidence-based. This section
 19 shall not be construed as limiting benefits that are otherwise
 20 available to a member under a hospital and medical service plan
 21 contract. Payments made on behalf of a member for any care,



1 treatment, intervention, or service other than applied
2 behavioral analysis shall not be applied toward any maximum
3 benefit established under this subsection.

4 (e) Coverage under this section may be subject to
5 copayment, deductible, and coinsurance provisions of a plan
6 contract that are no less favorable than the copayment,
7 deductible, and coinsurance provisions for other medical
8 services covered by the plan contract.

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

15 (g) The medical necessity of treatment covered by this
16 section shall be determined pursuant to the plan contract and
17 shall be defined in the plan contract in a manner that is
18 consistent with other services covered under the plan contract.
19 Except for inpatient services, if an individual is receiving
20 treatment for autism, a mutual benefit society may request a



1 review of the medical necessity of that treatment at the
2 society's discretion and at the society's expense.

3 (h) This section shall not be construed as reducing any
4 obligation to provide services to an individual under any
5 publicly funded program, an individualized family service plan,
6 an individualized education program, or an individualized
7 service plan.

8 (i) Coverage under this section shall exclude coverage
9 for:

10 (1) Care that is custodial in nature;

11 (2) Services and supplies that are not clinically
12 appropriate;

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

14 (4) Treatments considered experimental; and

15 (5) Services provided outside of the State.

16 (j) As of January 1, 2016, even if this section may
17 require benefits that exceed the essential health benefits
18 specified under section 1302(b) of the Patient Protection and
19 Affordable Care Act of 2010 (P.L. 111-148), the specific
20 benefits that exceed the specified essential health benefits



1 shall be required of all qualified health plans offered in this
2 State.

3 (k) Mutual benefit societies shall include in their
4 network of approved autism service providers only those
5 providers who have cleared state and federal criminal background
6 checks as determined by the society.

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

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

19 (1) Be certified by the Behavior Analyst Certification
20 Board, Inc.; provided that certification by the
21 Behavior Analyst Certification Board, Inc., shall be



1 valid for purposes of this subsection for no more than
2 one year; or

3 (2) Meet any existing credentialing requirements
4 determined by the mutual benefit society.

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

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

13 "Autism" has the same meaning as defined by the most recent
14 edition of the Diagnostic and Statistical Manual of Mental
15 Disorders.

16 "Autism service provider" means any person, entity, or
17 group that provides treatment for autism and meets the minimum
18 requirements pursuant to subsection (m).

19 "Diagnosis of autism" means medically necessary
20 assessments, evaluations, or tests conducted to diagnose whether
21 an individual has autism.



1 "Habilitative services" means evidence based counseling and
2 treatment programs, including applied behavior analysis, that
3 are:

4 (1) Necessary to develop, maintain, or restore, to the
5 maximum extent practicable, the functioning of an
6 individual; and

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

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

12 "Psychiatric care" means direct or consultative services
13 provided by a licensed psychiatrist.

14 "Psychological care" means direct or consultative services
15 provided by a licensed psychologist.

16 "Therapeutic care" means services provided by licensed
17 speech pathologists, registered occupational therapists,
18 licensed social workers, licensed clinical social workers, or
19 licensed physical therapists.

20 "Treatment for autism" includes the following care
21 prescribed or ordered for an individual diagnosed with autism by



1 a licensed physician, psychiatrist, psychologist, licensed
2 clinical social worker, or registered nurse practitioner if the
3 care is determined to be medically necessary:

- 4 (1) Habilitative services;
- 5 (2) Pharmacy care;
- 6 (3) Psychiatric care;
- 7 (4) Psychological care; and
- 8 (5) Therapeutic care."

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

11 **"§432D-23 Required provisions and benefits.**

12 Notwithstanding any provision of law to the contrary, each
13 policy, contract, plan, or agreement issued in the State after
14 January 1, 1995, by health maintenance organizations pursuant to
15 this chapter, shall include benefits provided in sections
16 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
17 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
18 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~
19 ~~122, and 431:10A-116.2,~~] and 431:10A- , and chapter 431M."

20 SECTION 5. Notwithstanding section 432D-23, Hawaii Revised
21 Statutes, the coverage and benefit for autism to be provided by



1 a health maintenance organization under section 4 of this Act
2 shall apply to all policies, contracts, plans, or agreements
3 issued or renewed in this State by a health maintenance
4 organization after January 1, .

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

7 SECTION 7. This Act shall take effect on July 1, 2112.



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. (SB791 HD2)

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

