
A BILL FOR AN ACT

RELATING TO HEALTH.

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 for all Hawaii residents by
3 requiring coverage of treatment for autism spectrum disorders.

4 SECTION 2. This Act shall be known and may be cited as
5 "Luke's Law".

6 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
7 amended by adding a new section to article 10A to be
8 appropriately designated and to read as follows:

9 "§431:10A- Autism spectrum disorders benefits and
10 coverage; notice; definitions. (a) Each individual or group
11 accident and health or sickness insurance policy, contract,
12 plan, or agreement issued or renewed in this State after July 1,
13 2014, shall provide to the policyholder and individuals under
14 twenty-one years of age covered under the policy, contract,
15 plan, or agreement, coverage for the screening, including well-
16 baby and well-child screening, diagnosis, and evidence-based
17 treatment of autism spectrum disorders.



1 Nothing in this section shall be construed to require such
2 coverage in a medicaid plan.

3 (b) Every insurer shall provide notice to its
4 policyholders regarding the coverage required by this section.
5 The notice shall be prominently positioned in any literature or
6 correspondence sent to policyholders and shall be transmitted to
7 policyholders within calendar year 2014 when annual information
8 is made available to members or in any other mailing to members,
9 but in no case later than December 31, 2014.

10 (c) Individual coverage for behavioral health treatment
11 provided under this section shall be subject to a maximum
12 benefit of \$50,000 per year and a maximum lifetime benefit of
13 \$300,000, but shall not be subject to any limits on the number
14 of visits to an autism service provider. After December 31,
15 2015, the insurance commissioner, on an annual basis, shall
16 adjust the maximum benefit for inflation using the medical care
17 component of the United States Bureau of Labor Consumer Price
18 Index for all urban consumers; provided that the commissioner
19 may post notice of and hold a public meeting pursuant to section
20 91-3(a) before adjusting the maximum benefit. The commissioner
21 shall publish the adjusted maximum benefit annually no later
22 than April 1 of each calendar year, which shall apply during the



1 following calendar year to health insurance policies subject to
2 this section. Payments made by an insurer on behalf of a
3 covered individual for any care, treatment, intervention, or
4 service other than behavioral health treatment shall not be
5 applied toward any maximum benefit established under this
6 subsection.

7 (d) Coverage under this section may be subject to
8 copayment, deductible, and coinsurance provisions of an accident
9 and health or sickness insurance policy, contract, plan, or
10 agreement that are no less favorable than the co-payment,
11 deductible, and coinsurance provisions for substantially all
12 other medical services covered by the policy, contract, plan, or
13 agreement.

14 (e) This section shall not be construed as limiting
15 benefits that are otherwise available to an individual under an
16 accident and health or sickness insurance policy, contract,
17 plan, or agreement.

18 (f) Coverage for treatment under this section shall not be
19 denied on the basis that the treatment is habilitative or non-
20 restorative in nature.

21 (g) Except for inpatient services, if an individual is
22 receiving treatment for autism spectrum disorders, an insurer



1 may request a review of that treatment. The cost of obtaining
2 any review shall be borne by the insurer.

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

7 (i) Nothing in this section shall apply to accident-only,
8 specified disease, hospital indemnity, qualified health plans as
9 defined in Section 1301 of the Patient Protection and Affordable
10 Care Act, medicare supplement, disability income, long-term
11 care, or other limited benefit hospital insurance policies.

12 (j) Insurers shall include in their network of approved
13 autism service providers only those providers who have cleared
14 criminal background checks as determined by the insurer.

15 (k) Insurers shall include at least as many board-
16 certified behavior analysts in their provider network as there
17 are qualified licensed psychologists in their network of
18 approved providers of applied behavior analysis.

19 (l) If an individual has been diagnosed as having an
20 autism spectrum disorder, then that individual shall not be
21 required to undergo repeat evaluation upon publication of a
22 subsequent edition of the Diagnostic and Statistical Manual of



1 Mental Disorders to remain eligible for coverage under this
2 section.

3 (m) Coverage for applied behavior analysis shall include
4 the services of the personnel who work under the supervision of
5 the board certified behavior analyst or the licensed
6 psychologist overseeing the program.

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

9 "Applied behavior analysis" means the design,
10 implementation, and evaluation of environmental modifications,
11 using behavioral stimuli and consequences, to produce socially
12 significant improvement in human behavior, including the use of
13 direct observation, measurement, and functional analysis of the
14 relationship between environment and behavior. The practice of
15 applied behavior analysis expressly excludes psychological
16 testing, diagnosis of a mental or physical disorder,
17 neuropsychology, psychotherapy, cognitive therapy, sex therapy,
18 psychoanalysis, hypnotherapy, and long-term counseling as
19 treatment modalities.

20 "Autism service provider" means any person, entity, or
21 group that provides treatment for autism spectrum disorders.



1 "Autism spectrum disorders" means any of the pervasive
2 developmental disorders or autism spectrum disorders as defined
3 by the most recent edition of the Diagnostic and Statistical
4 Manual of Mental Disorders.

5 "Behavioral health treatment" means evidence based
6 counseling and treatment programs, including applied behavior
7 analysis, that are:

8 (1) Necessary to develop, maintain, or restore, to the
9 maximum extent practicable, the functioning of an
10 individual; and

11 (2) Provided or supervised by a board-certified behavior
12 analyst or by a licensed psychologist so long as the
13 services performed are commensurate with the
14 psychologist's formal university training and
15 supervised experience.

16 "Board certified behavioral analyst" means a behavior
17 analyst credentialed by the Behavior Analyst Certification Board
18 as a board certified analyst.

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



1 "Pharmacy care" means medications prescribed by a licensed
2 physician or nurse practitioner and any health-related services
3 that are deemed medically necessary to determine the need or
4 effectiveness of the medications.

5 "Psychiatric care" means direct or consultative services
6 provided by a licensed psychiatrist.

7 "Psychological care" means direct or consultative services
8 provided by a licensed psychologist.

9 "Therapeutic care" means services provided by licensed
10 speech pathologists, registered occupational therapists,
11 licensed social workers, licensed clinical social workers, or
12 licensed physical therapists.

13 "Treatment for autism spectrum disorders" includes the
14 following care prescribed or ordered for an individual with an
15 autism spectrum disorder by a licensed physician, psychiatrist,
16 psychologist, licensed clinical social worker, or nurse
17 practitioner if the care is determined to be medically
18 necessary:

- 19 (1) Behavioral health treatment;
- 20 (2) Pharmacy care;
- 21 (3) Psychiatric care;
- 22 (4) Psychological care; and



1 (5) Therapeutic care."

2 SECTION 4. Chapter 432, Hawaii Revised Statutes, is
3 amended by adding a new section to article 1 to be appropriately
4 designated and to read as follows:

5 "§432:1- Autism spectrum disorders benefits and
6 coverage; notice; definitions. (a) Each individual or group
7 hospital or medical service plan, policy, contract, or agreement
8 issued or renewed in this State after July 1, 2014, shall
9 provide to the member and individuals under twenty-one years of
10 age covered under the service plan, policy, contract, or
11 agreement, coverage for the screening, including well-baby and
12 well-child screening, diagnosis, and evidence-based treatment of
13 autism spectrum disorders.

14 Nothing in this section shall be construed to require such
15 coverage in a medicaid plan.

16 (b) Every mutual benefit society shall provide written
17 notice to its members regarding the coverage required by this
18 section. The notice shall be prominently positioned in any
19 literature or correspondence sent to members and shall be
20 transmitted to members within calendar year 2014 when annual
21 information is made available to members or in any other mailing
22 to members, but in no case later than December 31, 2014.



1 (c) Individual coverage for behavioral health treatment
2 provided under this section shall be subject to a maximum
3 benefit of \$50,000 per year and a maximum lifetime benefit of
4 \$300,000, but shall not be subject to any limits on the number
5 of visits to an autism service provider. After December 31,
6 2015, the insurance commissioner, on an annual basis, shall
7 adjust the maximum benefit for inflation, using the medical care
8 component of the United States Bureau of Labor Consumer Price
9 Index for all urban consumers. The commissioner shall publish
10 the adjusted maximum benefit annually no later than April 1 of
11 each calendar year, which shall apply during the following
12 calendar year to health insurance policies subject to this
13 section; provided that the commissioner may post notice of and
14 hold a public meeting pursuant to section 91-3(a) before
15 adjusting the maximum benefit. Payments made by a mutual
16 benefit society on behalf of a covered individual for any care,
17 treatment, intervention, or service other than behavioral health
18 treatment, shall not be applied toward any maximum benefit
19 established under this subsection.

20 (d) Coverage under this section may be subject to
21 copayment, deductible, and coinsurance provisions of an
22 individual or group hospital or medical service plan, policy,



1 contract, or agreement that are no less favorable than the co-
2 payment, deductible, and coinsurance provisions for
3 substantially all other medical services covered by the plan,
4 policy, contract, or agreement.

5 (e) This section shall not be construed as limiting
6 benefits that are otherwise available to an individual under an
7 individual or group hospital or medical service plan, policy,
8 contract, or agreement.

9 (f) Coverage for treatment under this section shall not be
10 denied on the basis that the treatment is habilitative or non-
11 restorative in nature.

12 (g) Except for inpatient services, if an individual is
13 receiving treatment for autism spectrum disorders, an insurer
14 may request a review of that treatment. The cost of obtaining
15 any review shall be borne by the insurer.

16 (h) This section shall not be construed to reduce any
17 obligation to provide services to an individual under an
18 individualized family service plan, an individualized education
19 program, or an individualized service plan.

20 (i) Nothing in this section shall apply to accident-only,
21 specified disease, hospital indemnity, qualified health plans as
22 defined in Section 1301 of the Patient Protection and Affordable



1 Care Act, medicare supplement, disability income, long-term
2 care, or other limited benefit hospital insurance policies.

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

6 (k) Insurers shall include at least as many board-
7 certified behavior analysts in their provider network as there
8 are qualified licensed psychologists in their network of
9 approved providers of applied behavior analysis.

10 (l) If an individual has been diagnosed as having an
11 autism spectrum disorder, then that individual shall not be
12 required to undergo repeat evaluation upon publication of a
13 subsequent edition of the Diagnostic and Statistical Manual of
14 Mental Disorders to remain eligible for coverage under this
15 section.

16 (m) Coverage for applied behavior analysis shall include
17 the services of the personnel who work under the supervision of
18 the board certified behavior analyst or the licensed
19 psychologist overseeing the program.

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



1 "Applied behavior analysis" means the design,
2 implementation, and evaluation of environmental modifications,
3 using behavioral stimuli and consequences, to produce socially
4 significant improvement in human behavior, including the use of
5 direct observation, measurement, and functional analysis of the
6 relationship between environment and behavior. The practice of
7 applied behavior analysis expressly excludes psychological
8 testing, diagnosis of a mental or physical disorder,
9 neuropsychology, psychotherapy, cognitive therapy, sex therapy,
10 psychoanalysis, hypnotherapy, and long-term counseling as
11 treatment modalities.

12 "Autism service provider" means any person, entity, or
13 group that provides treatment for autism spectrum disorders.

14 "Autism spectrum disorders" means any of the pervasive
15 developmental disorders or autism spectrum disorders as defined
16 by the most recent edition of the Diagnostic and Statistical
17 Manual of Mental Disorders.

18 "Behavioral health treatment" means evidence-based
19 counseling and treatment programs, including applied behavior
20 analysis, that are:



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

4 (2) Provided or supervised by a board-certified behavior
5 analyst or by a licensed psychologist so long as the
6 services performed are commensurate with the
7 psychologist's formal university training and
8 supervised experience.

9 "Board certified behavioral analyst" means a behavior
10 analyst credentialed by the Behavior Analyst Certification Board
11 as a board certified analyst.

12 "Diagnosis of autism spectrum disorders" means medically
13 necessary assessments, evaluations, or tests conducted to
14 diagnose whether an individual has an autism spectrum disorder.

15 "Pharmacy care" means medications prescribed by a licensed
16 physician or nurse practitioner and any health-related services
17 that are deemed medically necessary to determine the need or
18 effectiveness of the medications.

19 "Psychiatric care" means direct or consultative services
20 provided by a licensed psychiatrist.

21 "Psychological care" means direct or consultative services
22 provided by a licensed psychologist.



1 "Therapeutic care" means services provided by licensed
2 speech pathologists, registered occupational therapists,
3 licensed social workers, licensed clinical social workers, or
4 licensed physical therapists.

5 "Treatment for autism spectrum disorders" includes the
6 following care prescribed or ordered for an individual with an
7 autism spectrum disorder by a licensed physician, psychiatrist,
8 psychologist, licensed clinical social worker, or nurse
9 practitioner if the care is determined to be medically
10 necessary:

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

16 SECTION 5. Section 432D-23, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§432D-23 Required provisions and benefits.**

19 Notwithstanding any provision of law to the contrary, each
20 policy, contract, plan, or agreement issued in the State after
21 January 1, 1995, by health maintenance organizations pursuant to
22 this chapter, shall include benefits provided in sections



1 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
2 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
3 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~
4 ~~122, and 431:10A-116.2~~] and 431:10A- , and chapter 431M."

5 SECTION 6. Notwithstanding section 432D-23, Hawaii Revised
6 Statutes, the coverage and benefit for autism spectrum disorders
7 to be provided by a health maintenance organization under
8 section 5 of this Act shall apply to all policies, contracts,
9 plans, or agreements issued or renewed in this State by a health
10 maintenance organization on or after July 1, 2014.

11 SECTION 7. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 2014.



Report Title:

Health; Insurance; Mandatory Health Coverage; Autism Spectrum Disorders

Description:

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism spectrum disorder treatments. (SD1)

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

