

JAN 25 2006

---

---

# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1 SECTION 1. Chapter 431M, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 **"§431M-A Parity of coverage and rates.** (a) An insurer  
5 subject to section 431M-2 shall provide a covered benefit under  
6 this chapter without imposing any rate, term, or condition,  
7 including but not limited to deductibles, co-payment plans, and  
8 other limitations on payment, that places a greater financial  
9 burden on an insured for access to a covered benefit under this  
10 chapter than for access to treatment for any other physical  
11 health conditions or diseases. Any deductible or out-of-pocket  
12 limits required under any policy coverage under section 431M-2  
13 shall be comprehensive for coverage of both a covered benefit  
14 under this chapter and a physical health condition or disease.

15 (b) A policy coverage under section 431M-2 shall be  
16 construed in compliance with subsection (a) if at least one  
17 choice for treatment under this chapter provided to the insured  
18 within the plan has rates, terms, and conditions that place no



1 greater financial burden on the insured than for access to  
2 treatment for any other physical health conditions or diseases.

3 (c) A policy coverage under section 431M-2 shall provide  
4 treatment benefits to the same extent as for any other physical  
5 illnesses and diseases."

6 SECTION 2. Section 431M-1, Hawaii Revised Statutes, is  
7 amended by adding a new definition to be appropriately inserted  
8 and to read as follows:

9 "Rate, term, or condition" means any lifetime or annual  
10 payment limits, deductibles, co-payments, co-insurance, and any  
11 other cost-sharing requirements, out-of-pocket limits, visit  
12 limits, and any other financial component of health insurance  
13 coverage that affects the insured."

14 SECTION 3. Section 431M-2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§431M-2 Policy coverage[-]; nondiscrimination; rules.**

17 (a) All individual and group accident and health or sickness  
18 insurance policies issued in this State, individual or group  
19 hospital or medical service plan contracts, [~~and~~] nonprofit  
20 mutual benefit society and health maintenance organization  
21 health plan contracts, and QUEST medical plans shall include  
22 within their hospital and medical coverage the benefits of



1 alcohol dependence, drug dependence, and mental illness  
2 treatment services provided in section 431M-4; except that this  
3 section shall not apply to insurance policies that are issued  
4 solely for single diseases[7] or otherwise limited, specialized  
5 coverage.

6 (b) Any policy issued under subsection (a) that does not  
7 otherwise provide for management of care under the plan, or that  
8 does not provide for the same degree of management of care for  
9 all health conditions, may provide coverage for treatment of  
10 mental illness, alcohol, and drug dependence through a managed  
11 care organization; provided that the managed care organization  
12 is in compliance with the rules adopted by the insurance  
13 commissioner that ensure that the system for delivery of  
14 treatment for mental illness does not diminish or negate the  
15 purpose of this section. The rules adopted by the insurance  
16 commissioner shall ensure that:

- 17 (1) Timely and appropriate access to care is available;
- 18 (2) The quantity, location, and specialty distribution of  
19 health care providers is adequate; and
- 20 (3) Administrative or clinical protocols do not serve to  
21 reduce access to medically necessary treatment for any  
22 insured.

1        (c) To be eligible for coverage under this section, the  
2 service shall be rendered:

3        (1) By a licensed or certified mental health professional;  
4                or

5        (2) In a mental health outpatient facility that provides a  
6                program for the treatment of mental illness pursuant  
7                to a written plan.

8        (d) The insurance commissioner shall adopt rules pursuant  
9 to chapter 91 to implement this section."

10        SECTION 4. Section 431M-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12        "**§431M-4 Mental illness, alcohol and drug dependence**

13 **benefits.** (a) The covered benefit under this chapter shall  
14 ~~[not be less than thirty days of in-hospital services per year.~~  
15 ~~Each day of in-hospital services may be exchanged for two days~~  
16 ~~of nonhospital residential services, two days of partial~~  
17 ~~hospitalization services, or two days of day treatment services.~~  
18 ~~Visits]~~ be limited to visits to a physician, psychologist,  
19 licensed clinical social worker, or advanced practice registered  
20 nurse ~~[shall not be less than thirty visits per year to hospital~~  
21 ~~or nonhospital facilities or to mental health outpatient~~  
22 ~~facilities for day treatment or partial hospitalization~~

1 ~~services. Each day of in-hospital services may also be~~  
2 ~~exchanged for two outpatient visits under this chapter; provided~~  
3 ~~that the patient's condition is such that the outpatient~~  
4 ~~services would reasonably preclude hospitalization. The total~~  
5 ~~covered benefit for outpatient services in subsections (b) and~~  
6 ~~(c) shall not be less than twenty-four visits per year; provided~~  
7 ~~that coverage of twelve of the twenty-four outpatient visits~~  
8 ~~shall apply only to the services under subsection (c). The~~  
9 ~~other covered benefits under this chapter shall apply to any of~~  
10 ~~the services in subsection (b) or (c). In the case of alcohol~~  
11 ~~and drug dependence benefits, the insurance policy may limit the~~  
12 ~~number of treatment episodes but may not limit the number to~~  
13 ~~less than two treatment episodes per lifetime.] and shall be in~~  
14 accordance with section 431M-A. Nothing in this section shall  
15 be construed to limit serious mental illness benefits.

16 (b) Alcohol and drug dependence benefits shall be as  
17 follows:

18 (1) Detoxification services as a covered benefit under  
19 this chapter shall be provided either in a hospital or  
20 in a nonhospital facility which has a written  
21 affiliation agreement with a hospital for emergency,  
22 medical, and mental health support services. The

1 following services shall be covered under  
2 detoxification services:

- 3 (A) Room and board;
- 4 (B) Diagnostic x-rays;
- 5 (C) Laboratory testing; and
- 6 (D) Drugs, equipment use, special therapies, and  
7 supplies.

8 Detoxification services shall be included as part of  
9 the covered in-hospital services [~~but shall not be~~  
10 ~~included in the treatment episode limitation, as~~  
11 ~~specified in subsection (a)~~];

12 (2) Alcohol or drug dependence treatment through in-  
13 hospital, nonhospital residential, or day treatment  
14 substance abuse services as a covered benefit under  
15 this chapter shall be provided in a hospital or  
16 nonhospital facility. Before a person qualifies to  
17 receive benefits under this subsection, a qualified  
18 physician, psychologist, licensed clinical social  
19 worker, or advanced practice registered nurse shall  
20 determine that the person suffers from alcohol or drug  
21 dependence, or both. The substance abuse services  
22 covered under this paragraph shall include those

1 services which are required for licensure and  
2 accreditation, and shall be [~~included as part of the~~  
3 ~~covered in hospital services as specified in~~  
4 ~~subsection (a).~~] in accordance with section 431M-A.

5 Excluded from alcohol or drug dependence treatment  
6 under this subsection are detoxification services and  
7 educational programs to which drinking or drugged  
8 drivers are referred by the judicial system, and  
9 services performed by mutual self-help groups; and

10 (3) Alcohol or drug dependence outpatient services as a  
11 covered benefit under this chapter shall be provided  
12 under an individualized treatment plan approved by a  
13 qualified physician, psychologist, licensed clinical  
14 social worker, or advanced practice registered nurse  
15 and must be services reasonably expected to produce  
16 remission of the patient's condition. An  
17 individualized treatment plan approved by a licensed  
18 clinical social worker or an advanced practice  
19 registered nurse for a patient already under the care  
20 or treatment of a physician or psychologist shall be  
21 done in consultation with the physician or  
22 psychologist. Services covered under this paragraph

1 shall be [~~included as part of the covered outpatient~~  
2 ~~services as specified in subsection (a).~~] in  
3 accordance with section 431M-A.

4 (c) Mental illness benefits.

5 (1) Covered benefits for mental health services set forth  
6 in this subsection shall be limited to coverage for  
7 diagnosis and treatment of mental disorders. All  
8 mental health services shall be provided under an  
9 individualized treatment plan approved by a physician,  
10 psychologist, licensed clinical social worker, or  
11 advanced practice registered nurse and must be  
12 reasonably expected to improve the patient's  
13 condition. An individualized treatment plan approved  
14 by a licensed clinical social worker or an advanced  
15 practice registered nurse for a patient already under  
16 the care or treatment of a physician or psychologist  
17 shall be done in consultation with the physician or  
18 psychologist;

19 (2) In-hospital and nonhospital residential mental health  
20 services as a covered benefit under this chapter shall  
21 be provided in a hospital or a nonhospital residential  
22 facility. The services to be covered shall include



1           those services required for licensure and  
 2           accreditation, and shall be [~~included as part of the~~  
 3           ~~covered in hospital services as specified in~~  
 4           ~~subsection (a).]~~ in accordance with section 431M-A;

5           (3) Mental health partial hospitalization as a covered  
 6           benefit under this chapter shall be provided by a  
 7           hospital or a mental health outpatient facility. The  
 8           services to be covered under this paragraph shall  
 9           include those services required for licensure and  
 10          accreditation and shall be [~~included as part of the~~  
 11          ~~covered in hospital services as specified in~~  
 12          ~~subsection (a).]~~ in accordance with section 431M-A;  
 13          and

14          (4) Mental health outpatient services shall be [~~a covered~~  
 15          ~~benefit under this chapter and shall be included as~~  
 16          ~~part of the covered outpatient services as specified~~  
 17          ~~in subsection (a).]~~ in accordance with section  
 18          431M-A."

19          SECTION 5. Section 431M-5, Hawaii Revised Statutes, is  
 20          repealed.

21          ~~["§431M-5 Nondiscrimination in deductibles, copayment~~  
 22          ~~plans, and other limitations on payment. (a) Deductible or~~

1 ~~copayment plans may be applied to benefits paid to or on behalf~~  
2 ~~of patients during the course of treatment as described in~~  
3 ~~section 431M-4, but in any case the proportion of deductibles or~~  
4 ~~copayments shall be not greater than those applied to comparable~~  
5 ~~physical illnesses generally requiring a comparable level of~~  
6 ~~care in each policy.~~

7 ~~(b) Notwithstanding subsection (a), health maintenance~~  
8 ~~organizations may establish reasonable provisions for enrollee~~  
9 ~~cost-sharing so long as the amount the enrollee is required to~~  
10 ~~pay does not exceed the amount of copayment and deductible~~  
11 ~~customarily required by insurance policies which are subject to~~  
12 ~~the provisions of this chapter for this type and level of~~  
13 ~~service. Nothing in this chapter prevents health maintenance~~  
14 ~~organizations from establishing durational limits which are~~  
15 ~~actuarially equivalent to the benefits required by this chapter.~~  
16 ~~Health maintenance organizations may limit the receipt of~~  
17 ~~covered services by enrollees to services provided by or upon~~  
18 ~~referral by providers associated with the health maintenance~~  
19 ~~organization.~~

20 ~~(c) A health insurance plan shall not impose rates, terms,~~  
21 ~~or conditions including service limits and financial~~  
22 ~~requirements, on serious mental illness benefits, if similar~~



1 ~~rates, terms, or conditions are not applied to services for~~  
2 ~~other medical or surgical conditions. This chapter shall not~~  
3 ~~apply to individual contracts; provided further that this~~  
4 ~~chapter shall not apply to QUEST medical plans under the~~  
5 ~~department of human services until July 1, 2002."]~~

6 SECTION 6. This Act shall be exempt from the impact  
7 assessment report by the auditor under section 23-51, Hawaii  
8 Revised Statutes. The legislature finds that any slight  
9 financial impact of this Act of a rise in premiums is likely to  
10 be incalculable (Auditor Report No. 88-6).

11 SECTION 7. The insurance commissioner shall submit a  
12 report to the legislature and the governor no later than  
13 January 15, 2007, on the following:

- 14 (1) An estimate of the impact of this Act on health  
15 insurance costs;
- 16 (2) Actions taken by the insurance commissioner to ensure  
17 that policies issued under section 431M-2, Hawaii  
18 Revised Statutes, are in compliance with this Act and  
19 that quality and access to treatment for mental  
20 illness provided by the plans are not compromised by  
21 providing financial parity for such coverage;

- 1           (3) When a policy issued under section 431M-2, Hawaii  
2           Revised Statutes, offers choices for treatment of  
3           mental illness and alcohol and drug dependence, an  
4           analysis and comparison of those choices in regard to  
5           level of access, choice, and financial burden; and  
6           (4) Identification of any segments of the population of  
7           Hawaii that may be excluded from access to treatment  
8           for mental illness at the level provided by this Act,  
9           including an estimate of the number of residents  
10          excluded from such access under health benefit plans  
11          offered or administered by employers who receive the  
12          majority of their annual revenues from contracts,  
13          grants, or other expenditures by state agencies.

14          SECTION 8. (a) This Act shall not be construed to:

- 15          (1) Limit the provision of specialized Medicaid covered  
16          services for individuals with mental illness;  
17          (2) Contravene the provisions of federal law, federal or  
18          state Medicaid policy, or the terms and conditions  
19          imposed on any Medicaid waiver granted to the State  
20          with respect to the provision of services to  
21          individuals with mental illness; and



1           (3) Affect any annual health insurance policy issued under  
2           section 431M-2, Hawaii Revised Statutes, until its  
3           date of renewal or any health insurance plan governed  
4           by a collective bargaining agreement or employment  
5           contract until the expiration of that contract.

6           (b) Any rules relating to eligibility for payment for  
7           treatment of mental illness shall remain in effect until the  
8           effective date of this Act and thereafter shall be deemed to be  
9           the rules adopted by the insurance commissioner under section  
10          431M-2, Hawaii Revised Statutes, to the extent that they are  
11          consistent with this Act and until amended or repealed by the  
12          insurance commissioner.

13          SECTION 9. In codifying the new section added by section 1  
14          of this Act, the revisor of statutes shall substitute an  
15          appropriate section number for the letter used in designating  
16          the new section in this Act.

17          SECTION 10. Statutory material to be repealed is bracketed  
18          and stricken. New statutory material is underscored.

19          SECTION 11. This Act shall take effect upon its approval.

20

INTRODUCED BY: *Freddie Chun Oakes*



**Report Title:**

Health Insurance; Mental Health Parity

**SB. NO. 3208**

**Description:**

Provides parity by removing all rates, terms, or conditions, including service limits and financial requirements, on mental health benefits coverage.

