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# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

**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 procedures for all Hawaii  
3 residents by requiring coverage of and treatment for autism  
4 spectrum disorders.

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

8 "§431:10A- Autism spectrum disorders benefits and  
9 coverage; notice; definitions. (a) Any other law to the  
10 contrary notwithstanding, each employer group health insurance  
11 policy, contract, plan, or agreement issued or renewed in this  
12 state after December 31, 2008, shall provide to the policyholder  
13 and individuals under twenty-one years of age covered under the  
14 policy, contract, plan, or agreement, coverage for the diagnosis  
15 and treatment of autism spectrum disorders.

16 (b) Every insurer shall provide notice to its  
17 policyholders regarding the coverage required by this section.

18 The notice shall be in writing and prominently positioned in any



1 literature or correspondence sent to policyholders and shall be  
2 transmitted to policyholders within calendar year 2008 when  
3 annual information is made available to policyholders, or in any  
4 other mailing to policyholders, but in no case later than  
5 December 31, 2008.

6 (c) Coverage provided under this section shall be subject  
7 to a maximum benefit of \$75,000 per year, but shall not be  
8 subject to any limits on the number of visits to an autism  
9 service provider. After December 31, 2010, the insurance  
10 commissioner, on an annual basis, shall adjust the maximum  
11 benefit for inflation using the medical care component of the  
12 United States Department of Labor consumer price index for all  
13 urban consumers (CPI-U). The commissioner shall publish the  
14 adjusted maximum benefit annually no later than April 1 of each  
15 calendar year, which shall apply during the following calendar  
16 year to health insurance policies subject to this section.

17 Payments made by an insurer on behalf of a covered individual  
18 for any care, treatment, intervention, service, or item, the  
19 provision of which was for the treatment of a health condition  
20 unrelated to the covered individual's autism spectrum disorder,  
21 shall not be applied toward any maximum benefit established  
22 under this subsection.



1        (d) Coverage under this section shall be subject to co-  
2 payment, deductible, and co-insurance provisions of a health  
3 insurance policy to the extent that other medical services  
4 covered by the policy are subject to these provisions.

5        (e) This section shall not be construed as limiting  
6 benefits that are otherwise available to an individual under a  
7 health insurance policy.

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

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

16        "Autism service provider" means any person, entity, or  
17 group that provides treatment of autism spectrum disorders.

18        "Autism spectrum disorders" means any of the pervasive  
19 developmental disorders as defined by the most recent edition of  
20 the Diagnostic and Statistical Manual of Mental Disorders,  
21 including autistic disorder, Asperger's disorder, pervasive



1 developmental disorder not otherwise specified, Rett's disorder,  
2 and childhood disintegrative disorder.

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

6 "Health insurance policy" means any group health, sickness,  
7 or accident policy or subscriber contract or certificate issued  
8 by an insurance entity subject to this section.

9 "Medically necessary" means any care, treatment,  
10 intervention, service, or item that is prescribed, provided, or  
11 ordered by a physician, psychologist, or registered nurse  
12 practitioner licensed to practice in this state in accordance  
13 with accepted standards or practice and that is reasonably  
14 expected to accomplish any of the following:

15 (1) Prevent the onset of an illness, condition, injury, or  
16 disability;

17 (2) Reduce or ameliorate the physical, mental, or  
18 developmental effects of an illness, condition,  
19 injury, or disability; or

20 (3) Assist to achieve or maintain maximum functional  
21 capacity in performing daily activities, taking into  
22 account both the functional capacity of the recipient



1           and those functional capacities that are appropriate  
2           to recipients of care of the same age.

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

7           "Psychiatric care" means direct or consultative services  
8 provided by a licensed psychiatrist.

9           "Psychological care" means direct or consultative services  
10 provided by a licensed psychologist.

11           "Rehabilitative and habilitative care" means professional,  
12 counseling, and guidance services and treatment programs,  
13 including applied behavior analysis, that are necessary to  
14 develop, maintain, and restore, to the maximum extent  
15 practicable, the functioning of an individual.

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

19           "Treatment for autism spectrum disorders" includes the  
20 following care prescribed, provided, or ordered for an  
21 individual diagnosed with an autism spectrum disorder by a  
22 licensed physician, psychologist, or registered nurse



1 practitioner if the care is determined to be medically  
2 necessary:

- 3       (1) Psychiatric care;
- 4       (2) Psychological care;
- 5       (3) Rehabilitative and habilitative care;
- 6       (4) Therapeutic care; and
- 7       (5) Pharmacy care."

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

11       "**§432:1- Autism spectrum disorders benefits and**  
12 **coverage; notice; definitions.** (a) Any other law to the  
13 contrary notwithstanding, each individual and group hospital or  
14 medical service plan, policy, contract, or agreement issued or  
15 renewed in this state after December 31, 2008, shall provide to  
16 the member and individuals under twenty-one years of age covered  
17 under the service plan, policy, contract, or agreement, coverage  
18 for the diagnosis and treatment of autism spectrum disorders.

19       (b) Every mutual benefit society shall provide notice to  
20 its members regarding the coverage required by this section.  
21 The notice shall be in writing and prominently positioned in any  
22 literature or correspondence sent to members and shall be



1 transmitted to members within calendar year 2008 when annual  
2 information is made available to members, or in any other  
3 mailing to members, but in no case later than December 31, 2008.

4 (c) Coverage provided under this section shall be subject  
5 to a maximum benefit of \$75,000 per year, but shall not be  
6 subject to any limits on the number of visits to an autism  
7 service provider. After December 31, 2010, the insurance  
8 commissioner, on an annual basis, shall adjust the maximum  
9 benefit for inflation using the medical care component of the  
10 United States Department of Labor consumer price index for all  
11 urban consumers (CPI-U). The commissioner shall publish the  
12 adjusted maximum benefit annually no later than April 1 of each  
13 calendar year, which shall apply during the following calendar  
14 year to health insurance policies subject to this section.  
15 Payments made by a mutual benefit society on behalf of a covered  
16 individual for any care, treatment, intervention, service, or  
17 item, the provision of which was for the treatment of a health  
18 condition unrelated to the covered individual's autism spectrum  
19 disorder, shall not be applied toward any maximum benefit  
20 established under this subsection.

21 (d) Coverage under this section shall be subject to co-  
22 payment, deductible, and coinsurance provisions of a health



1 insurance policy to the extent that other medical services  
2 covered by the policy are subject to these provisions.

3 (e) This section shall not be construed as limiting  
4 benefits that are otherwise available to an individual under a  
5 health insurance policy.

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

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

14 "Autism service provider" means any person, entity, or  
15 group that provides treatment of autism spectrum disorders.

16 "Autism spectrum disorders" means any of the pervasive  
17 developmental disorders as defined by the most recent edition of  
18 the Diagnostic and Statistical Manual of Mental Disorders,  
19 including autistic disorder, Asperger's disorder, pervasive  
20 developmental disorder not otherwise specified, Rett's disorder,  
21 and childhood disintegrative disorder.





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

4 "Health insurance policy" means any group health, sickness,  
5 or accident policy or subscriber contract or certificate issued  
6 by a mutual benefit society subject to this section.

7 "Medically necessary" means any care, treatment,  
8 intervention, service or item that is prescribed, provided, or  
9 ordered by a physician, psychologist, or registered nurse  
10 practitioner licensed to practice in this state in accordance  
11 with accepted standards or practice and that is reasonably  
12 expected to accomplish any of the following:

13 (1) Prevent the onset of an illness, condition, injury, or  
14 disability;

15 (2) Reduce or ameliorate the physical, mental, or  
16 developmental effects of an illness, condition,  
17 injury, or disability; or

18 (3) Assist to achieve or maintain maximum functional  
19 capacity in performing daily activities, taking into  
20 account both the functional capacity of the recipient  
21 and those functional capacities that are appropriate  
22 to recipients of care of the same age.



1       "Pharmacy care" means medications prescribed by a licensed  
2 physician or registered nurse practitioner and any health-  
3 related services that are deemed medically necessary to  
4 determine the need or 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       "Rehabilitative care" means professional, counseling, and  
10 guidance services and treatment programs, including applied  
11 behavior analysis, that are necessary to develop, maintain, and  
12 restore, to the maximum extent practicable, the functioning of  
13 an individual.

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

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



- 1       (1) Psychiatric care;
- 2       (2) Psychological care;
- 3       (3) Rehabilitative care;
- 4       (4) Therapeutic care; and
- 5       (5) Pharmacy 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~~] state  
11 after January 1, 1995, by health maintenance organizations  
12 pursuant to this chapter, shall include benefits provided in  
13 sections 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116,  
14 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, [~~and~~]  
15 431:10A-121, and 431:10A-\_\_\_\_\_, and chapter 431M."

16       SECTION 5. The benefit to be provided by health  
17 maintenance organizations corresponding to the benefit provided  
18 under section 431:10A-\_\_\_\_\_, Hawaii Revised Statutes, as contained  
19 in the amendment to section 432D-23, Hawaii Revised Statutes, in  
20 section 4 of this Act, shall take effect for all policies,  
21 contracts, plans, or agreements issued in the State after  
22 December 31, 2008.



1 SECTION 6. (a) There is established in the department of  
2 health for administrative purposes a temporary autism disorders  
3 spectrum benefits and coverage task force. The children with  
4 special health needs branch shall be responsible for  
5 administering the work of the temporary task force, providing a  
6 facilitator, and submitting a report to the legislature. The  
7 goals of the temporary task force shall be to discuss and seek  
8 input on the problems faced by parents of children with autism  
9 and what can be done to ensure proper benefits and services are  
10 provided through public and private resources to address the  
11 special needs of children with autism, including providing  
12 services involving applied behavioral analyses techniques.

13 (b) The members of the early childhood education task  
14 force shall consist of nine members as follows:

15 (1) A member of the house of representatives appointed by  
16 the speaker of the house of representatives;

17 (2) A member of the senate appointed by the president of  
18 the senate;

19 (3) The superintendent of education or the  
20 superintendent's designee;

21 (4) The director of human services or the director's  
22 designee;



- 1 (5) The director of health or the director's designee;
- 2 (6) The insurance commissioner or the insurance  
3 commissioner's designee;
- 4 (7) The chief executive officer of the Hawaii Medical  
5 Service Association or the chief executive officer's  
6 designee; and
- 7 (8) Two parents of children diagnosed with autistic  
8 spectrum disorder appointed by the governor.
- 9 (c) The autism disorders spectrum benefits and coverage  
10 task force shall submit a report of its findings and  
11 recommendations, including any proposed legislation, to the  
12 legislature no later than twenty days prior to the convening of  
13 the regular session of 2009.

14 SECTION 7. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval;  
17 provided that section 6 of this bill shall be repealed on June  
18 30, 2009.



**Report Title:**

Mandatory Health Coverage; Autism Spectrum Disorders

**Description:**

Requires all health insurers, mutual benefit societies, and health maintenance organizations to provide mandatory coverage for all policyholders, member, subscribers, and individuals under age 21 for the diagnosis and treatment of autism spectrum disorders beginning 1/1/2009. (HB2727 HD1)

