

JAN 23 2009

A BILL FOR AN ACT

RELATING TO INSURANCE BENEFITS.

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



1 within the plan has rates, terms, and conditions that place no
2 greater financial burden on the insured than for access to
3 treatment for any other physical health conditions or diseases.

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

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

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

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

17 "**§431M-2 Policy coverage[-]; nondiscrimination; rules.**

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



1 within their hospital and medical coverage the benefits of
2 alcohol dependence, drug dependence, and mental illness
3 treatment services provided in section 431M-4 except that this
4 section shall not apply to insurance policies that are issued
5 solely for single diseases, or otherwise limited, specialized
6 coverage.

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

- 18 (1) Timely and appropriate access to care is available;
19 (2) The quantity, location, and specialty distribution of
20 health care providers is adequate; and



1 (3) Administrative or clinical protocols do not serve to
2 reduce access to medically necessary treatment for any
3 insured.

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

6 (1) By a licensed or certified mental health professional;
7 or

8 (2) In a mental health outpatient facility that provides a
9 program for the treatment of mental illness pursuant
10 to a written plan.

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

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

15 "**§431M-4 Mental illness, alcohol and drug dependence**
16 **benefits.** (a) The covered benefit under this chapter shall
17 ~~[not be less than thirty days of in hospital services per year.~~
18 ~~Each day of in hospital services may be exchanged for two days~~
19 ~~of nonhospital residential services, two days of partial~~
20 ~~hospitalization services, or two days of day treatment services.~~

21 ~~Visits]~~ be limited to visits to a physician, psychologist,
22 licensed clinical social worker, marriage and family therapist,



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

21 (b) Alcohol and drug dependence benefits shall be as
22 follows:



1 (1) Detoxification services as a covered benefit under
2 this chapter shall be provided either in a hospital or
3 in a nonhospital facility that has a written
4 affiliation agreement with a hospital for emergency,
5 medical, and mental health support services. The
6 following services shall be covered under
7 detoxification services:

- 8 (A) Room and board;
9 (B) Diagnostic x-rays;
10 (C) Laboratory testing; and
11 (D) Drugs, equipment use, special therapies, and
12 supplies.

13 Detoxification services shall be included as part of
14 the covered in-hospital services [~~but shall not be~~
15 ~~included in the treatment episode limitation, as~~
16 ~~specified in subsection (a)];~~

17 (2) Alcohol or drug dependence treatment through
18 in-hospital, nonhospital residential, or day treatment
19 substance abuse services as a covered benefit under
20 this chapter shall be provided in a hospital or
21 nonhospital facility. Before a person qualifies to
22 receive benefits under this subsection, a qualified



1 physician, psychologist, licensed clinical social
2 worker, marriage and family therapist, licensed mental
3 health counselor, or advanced practice registered
4 nurse shall determine that the person suffers from
5 alcohol or drug dependence, or both; provided that the
6 substance abuse services covered under this paragraph
7 shall include those services that are required for
8 licensure and accreditation and shall be [~~included as~~
9 ~~part of the covered in hospital services as specified~~
10 ~~in subsection (a).~~] in accordance with section 431M-A.

11 Excluded from alcohol or drug dependence treatment
12 under this subsection are detoxification services and
13 educational programs to which drinking or drugged
14 drivers are referred by the judicial system and
15 services performed by mutual self-help groups;

16 (3) Alcohol or drug dependence outpatient services as a
17 covered benefit under this chapter shall be provided
18 under an individualized treatment plan approved by a
19 qualified physician, psychologist, licensed clinical
20 social worker, marriage and family therapist, licensed
21 mental health counselor, or advanced practice
22 registered nurse and shall be services reasonably



1 expected to produce remission of the patient's
2 condition. An individualized treatment plan approved
3 by a marriage and family therapist, licensed mental
4 health counselor, licensed clinical social worker, or
5 an advanced practice registered nurse for a patient
6 already under the care or treatment of a physician or
7 psychologist shall be done in consultation with the
8 physician or psychologist. Services covered under
9 this paragraph shall be ~~[included as part of the~~
10 ~~covered outpatient services as specified in subsection~~
11 ~~(a);]~~ in accordance with section 431M-A; and

- 12 (4) Substance abuse assessments for alcohol or drug
13 dependence as a covered benefit under this section for
14 a child facing disciplinary action under section
15 302A-1134.6 shall be provided by a qualified
16 physician, psychologist, licensed clinical social
17 worker, advanced practice registered nurse, or
18 certified substance abuse counselor. The certified
19 substance abuse counselor shall be employed by a
20 hospital or nonhospital facility providing substance
21 abuse services. The substance abuse assessment shall



1 evaluate the suitability for substance abuse treatment
2 and placement in an appropriate treatment setting.

3 (c) Mental illness benefits.

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

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



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

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

15 (4) Mental health outpatient services shall be ~~[a covered~~
 16 ~~benefit under this chapter and shall be included as~~
 17 ~~part of the covered outpatient services as specified~~
 18 ~~in subsection (a).]~~ in accordance with section
 19 431M-A."

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



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

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



1 ~~(c) A health insurance plan shall not impose rates, terms,~~
2 ~~or conditions including service limits and financial~~
3 ~~requirements, on serious mental illness benefits, if similar~~
4 ~~rates, terms, or conditions are not applied to services for~~
5 ~~other medical or surgical conditions. This chapter shall not~~
6 ~~apply to individual contracts, provided further that this~~
7 ~~chapter shall not apply to QUEST medical plans under the~~
8 ~~department of human services until July 1, 2002."]~~

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

14 SECTION 7. The insurance commissioner shall submit a
15 report to the legislature and the governor no later than
16 January 15, 2010, on the following:

- 17 (1) An estimate of the impact of this Act on health
18 insurance costs;
- 19 (2) Actions taken by the insurance commissioner to ensure
20 that policies issued under section 431M-2, Hawaii
21 Revised Statutes, are in compliance with this Act and
22 that quality and access to treatment for mental



1 illness provided by the plans are not compromised by
2 providing financial parity for such coverage;

3 (3) When a policy issued under section 431M-2, Hawaii
4 Revised Statutes, offers choices for treatment of
5 mental illness and alcohol and drug dependence, an
6 analysis and comparison of those choices in regard to
7 level of access, choice, and financial burden; and

8 (4) Identification of any segments of the population of
9 Hawaii that may be excluded from access to treatment
10 for mental illness at the level provided by this Act,
11 including an estimate of the number of residents
12 excluded from such access under health benefit plans
13 offered or administered by employers who receive the
14 majority of their annual revenues from contracts,
15 grants, or other expenditures by state agencies.

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

17 (1) Limit the provision of specialized medicaid covered
18 services for individuals with mental illness;

19 (2) Contravene the provisions of federal law, federal or
20 state medicaid policy, or the terms and conditions
21 imposed on any medicaid waiver granted to the State



1 with respect to the provision of services to
2 individuals with mental illness; and
3 (3) Affect any annual health insurance policy issued under
4 section 431M-2, Hawaii Revised Statutes, until its
5 date of renewal or any health insurance plan governed
6 by a collective bargaining agreement or employment
7 contract until the expiration of that contract.
8 (b) Any rules relating to eligibility for payment for
9 treatment of mental illness shall remain in effect until the
10 effective date of this Act and thereafter shall be deemed to be
11 the rules adopted by the insurance commissioner under section
12 431M-2, Hawaii Revised Statutes, to the extent that they are
13 consistent with this Act and until amended or repealed by the
14 insurance commissioner.

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

19 SECTION 10. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21



S.B. NO. 304

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

2

INTRODUCED BY: Shianne Chun Oakland



Report Title:

Health Insurance; Mental Health, Alcohol and Drug Abuse
Treatment Parity

Description:

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





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February 25, 2009

TESTIMONY IN SUPPORT OF SB 304, Relating to Insurance Benefits

TO: Senator Rosalyn H. Baker, Chair Committee on Commerce and Consumer Protection;
Senator David Y. Ige, Vice Chair; and Members

FR: Alex Santiago, Executive Director
Hawaii Psychological Association

RE: SB 304, Relating to Insurance Benefits, 8:30 a.m., February 26, 2009, Rm. 229

Senator Rosalyn Baker, and Members of the Committee on Commerce and Consumer Protection, my name is Alex Santiago and I am the Executive Director of the Hawaii Psychological Association (HPA). We would like to present testimony in support of SB 304.

The Hawaii Psychological Association supports all efforts to increase access for mental health care to the residents of Hawaii. We are the single organization representing psychologists in Hawaii. We represent approximately 300 psychologists in private practice, state and government service, University professors as well as graduate and undergraduate students. Our bylaws mandate that our organization not only represent psychologists, but also work to support the welfare and best interests of the community. It is from this perspective that our testimony is submitted.

HPA believes that by increasing access to care, the state will better provide for the health of the people of Hawaii, while reducing overall costs of care over the long term. Thank you for your consideration of our testimony in support of SB 304.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 26, 2009

The Honorable Rosalyn Baker, Chair
The Honorable David Ige, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: SB 304 – Relating to Insurance Benefits

Dear Chair Baker, Vice Chair Ige and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 304.

Currently in the state individuals diagnosed with serious mental illness (schizophrenia, schizo-affective disorder, bipolar, obsessive compulsive disorder, dissociative disorder, delusional disorder and major depression) are able to obtain treatment on par with other medical disorders covered by a health plan. In addition, those in need of substance abuse treatment also face no restrictions since the Legislature removed benefit limitations in 2004.

For any other individual in need of mental health benefits, due to federal legislation which was recently passed, (The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 - H.R. 1424), health plans in the state are in the process of implementing parity for all other mental health diagnoses. Under the federal legislation health plans cannot apply more restrictive financial requirements (for example deductibles and co-payments) or treatment limitations (day or visit limits) for mental health or substance abuse services than those established for medical benefits. This was signed into law in 2008 and will be enacted in October of this year with a delay allowed for some collectively bargained contracts. Given the enactment of federal legislation we believe that SB 304 is unnecessary.

Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD' followed by a long horizontal stroke.

Jennifer Diesman
Assistant Vice President
Government Relations