

JAN 23 2009

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 for all Hawaii residents by
3 requiring coverage of medically necessary early intervention
4 services for infants and toddlers from birth to age three.

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

8 **"§431:10A- Early intervention services; 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, 2009, shall provide to the policyholder
13 and infants and toddlers with special needs from birth to age
14 three covered under the policy, contract, plan, or agreement,
15 coverage for medically necessary early intervention services
16 including both rehabilitative therapy and developmental therapy.



1 (b) Every insurer shall provide 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 when annual information is made
6 available to policyholders, or in any other mailing to
7 policyholders.

8 (c) Coverage provided under this section shall be subject
9 to a maximum benefit of \$75,000 per year, but shall not be
10 subject to any limits on the number of visits to a provider of
11 early intervention services. After December 31, 2011, the
12 insurance commissioner, on an annual basis, shall adjust the
13 maximum benefit for inflation using the medical care component
14 of the United States Department of Labor consumer price index
15 for all urban consumers. No later than April 1 of each calendar
16 year, the commissioner shall publish the adjusted maximum
17 benefit that shall apply during the following calendar year to
18 health insurance policies subject to this section. Payments
19 made by an insurer on behalf of a covered individual for any
20 care, treatment, intervention, service, or item, the provision
21 of which was for the treatment of a health condition unrelated
22 to the covered individual's early intervention services, shall



1 not be applied toward any maximum benefit established under this
2 subsection.

3 (d) Coverage under this section shall be subject to
4 copayment, deductible, and coinsurance provisions of a health
5 insurance policy to the extent that other medical services
6 covered by the policy are subject to these provisions.

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

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

12 "Biological risk" means prenatal, perinatal, neonatal, or
13 early developmental events suggestive of biological insults to
14 the developing central nervous system which increase the
15 probability of delayed development.

16 "Case management" means an ongoing service of shared
17 responsibility between families and professionals that
18 identifies needs and assists in obtaining coordinated,
19 appropriate services and resources.

20 "Delayed development" means a significant delay in one or
21 more of the following areas of development: cognition, speech,



1 language, physical, motor, vision, hearing, psychosocial, or
2 self-help skills.

3 "Department" means the department of health.

4 "Director" means the director of health.

5 "Early intervention services" means services that:

6 (1) Are provided under public supervision;

7 (2) Are provided by qualified professional and
8 paraprofessional personnel;

9 (3) Are provided in conformity with an individualized
10 family support plan; and

11 (4) Include but are not limited to: family support,
12 counseling, and home visits; special instruction;
13 speech pathology and audiology; music therapy;
14 occupational therapy; physical therapy; psychological
15 services; case management services; medical services
16 only for diagnostic or evaluation purposes; early
17 identification, screening, and assessment services;
18 and health services necessary to enable the infant or
19 toddler to benefit from the other early intervention
20 services.



1 "Environmental risk" means physical, social, or economic
2 factors that may limit development. Environmental risk includes
3 but is not limited to the following conditions:

4 (1) Birthweight between 1,500 and 2,500 grams, in
5 combination with any other environmental risk factor;

6 (2) Parental age less than sixteen;

7 (3) Parental age between sixteen and eighteen and less
8 than a high school education in combination with any
9 other environmental risk factor;

10 (4) Any existing physical, developmental, emotional, or
11 psychiatric disability in a primary caregiver;

12 (5) Presence of physical, developmental, emotional, or
13 psychiatric disability in a sibling or any other
14 family member in the home in combination with any
15 other environmental risk factor;

16 (6) Abuse of any legal or illegal substance by a primary
17 caregiver;

18 (7) Child abuse and neglect of target child or siblings;

19 (8) Economically disadvantaged family in combination with
20 any other environmental risk factor;

21 (9) Single parent in combination with any other
22 environmental risk factor; and



1 (10) Incarceration of a primary caregiver in combination
2 with any other environmental risk factor.

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

6 "Individual family support plan" means a dynamic, voluntary
7 plan of action and support developed by families and
8 professionals that emanates from the families' expressions of
9 needs and goals.

10 "Infants and toddlers with special needs" means infants and
11 toddlers from birth to the age of three with delayed
12 development, biological risk, or environmental risk.

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

19 (1) Prevent the onset of an illness, condition, injury, or
20 disability;



- 1 (2) Reduce or ameliorate the physical, mental, or
- 2 developmental effects of an illness, condition,
- 3 injury, or disability; or
- 4 (3) Assist in achieving or maintaining maximum functional
- 5 capacity in performing daily activities, taking into
- 6 account both the functional capacity of the recipient
- 7 and those functional capacities that are appropriate
- 8 to recipients of care of the same age."

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- Early intervention services; benefits and**
13 **coverage; notice; definitions.** (a) Any other law to the
14 contrary notwithstanding, each individual and group hospital or
15 medical service plan, policy, contract, or agreement issued or
16 renewed in this State after December 31, 2009, shall provide to
17 the member and infants and toddlers with special needs from
18 birth to age three covered under the policy, contract, plan, or
19 agreement, coverage for medically necessary early intervention
20 services including both rehabilitative therapy and developmental
21 therapy.



1 (b) Every mutual benefit society shall provide notice to
2 its members 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 members and shall be
5 transmitted to members when annual information is made available
6 to members, or in any other mailing to members.

7 (c) Coverage provided under this section shall be subject
8 to a maximum benefit of \$75,000 per year, but shall not be
9 subject to any limits on the number of visits to a provider of
10 early intervention services. After December 31, 2011, the
11 insurance commissioner, on an annual basis, shall adjust the
12 maximum benefit for inflation using the medical care component
13 of the United States Department of Labor consumer price index
14 for all urban consumers. No later than April 1 of each calendar
15 year, the commissioner shall publish the adjusted maximum
16 benefit that shall apply during the following calendar year to
17 health insurance policies subject to this section. Payments
18 made by a mutual benefit society on behalf of a covered
19 individual for any care, treatment, intervention, service, or
20 item, the provision of which was for the treatment of a health
21 condition unrelated to the covered individual's early



1 intervention services, shall not be applied toward any maximum
2 benefit established under this subsection.

3 (d) Coverage under this section shall be subject to
4 copayment, deductible, and coinsurance provisions of a health
5 insurance policy to the extent that other medical services
6 covered by the policy are subject to these provisions.

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

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

12 "Biological risk" means prenatal, perinatal, neonatal, or
13 early developmental events suggestive of biological insults to
14 the developing central nervous system which increase the
15 probability of delayed development.

16 "Case management" means an ongoing service of shared
17 responsibility between families and professionals that
18 identifies needs and assists in obtaining coordinated,
19 appropriate services and resources.

20 "Delayed development" means a significant delay in one or
21 more of the following areas of development: cognition, speech,



1 language, physical, motor, vision, hearing, psychosocial, or
2 self-help skills.

3 "Department" means the department of health.

4 "Director" means the director of health.

5 "Early intervention services" means services that:

6 (1) Are provided under public supervision;

7 (2) Are provided by qualified professional and
8 paraprofessional personnel;

9 (3) Are provided in conformity with an individualized
10 family support plan; and

11 (4) Include but are not limited to: family support,
12 counseling, and home visits; special instruction;
13 speech pathology and audiology; music therapy;
14 occupational therapy; physical therapy; psychological
15 services; case management services; medical services
16 only for diagnostic or evaluation purposes; early
17 identification, screening, and assessment services;
18 and health services necessary to enable the infant or
19 toddler to benefit from the other early intervention
20 services.



1 "Environmental risk" means physical, social, or economic
2 factors that may limit development. Environmental risk includes
3 but is not limited to the following conditions:

4 (1) Birthweight between 1,500 and 2,500 grams, in
5 combination with any other environmental risk factor;

6 (2) Parental age less than sixteen;

7 (3) Parental age between sixteen and eighteen and less
8 than a high school education in combination with any
9 other environmental risk factor;

10 (4) Any existing physical, developmental, emotional, or
11 psychiatric disability in a primary caregiver;

12 (5) Presence of physical, developmental, emotional, or
13 psychiatric disability in a sibling or any other
14 family member in the home in combination with any
15 other environmental risk factor;

16 (6) Abuse of any legal or illegal substance by a primary
17 caregiver;

18 (7) Child abuse and neglect of target child or siblings;

19 (8) Economically disadvantaged family in combination with
20 any other environmental risk factor;

21 (9) Single parent in combination with any other
22 environmental risk factor; and



1 (10) Incarceration of a primary caregiver in combination
2 with any other environmental risk factor.

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

6 "Individual family support plan" means a dynamic, voluntary
7 plan of action and support developed by families and
8 professionals that emanates from the families' expressions of
9 needs and goals.

10 "Infants and toddlers with special needs" means infants and
11 toddlers from birth to the age of three with delayed
12 development, biological risk, or environmental risk.

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

19 (1) Prevent the onset of an illness, condition, injury, or
20 disability;



- 1 (2) Reduce or ameliorate the physical, mental, or
- 2 developmental effects of an illness, condition,
- 3 injury, or disability; or
- 4 (3) Assist in achieving or maintaining maximum functional
- 5 capacity in performing daily activities, taking into
- 6 account both the functional capacity of the recipient
- 7 and those functional capacities that are appropriate
- 8 to recipients of care of the same age."

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,
 17 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, [~~and~~]
 18 431:10A-121, and 431:10A- , and chapter 431M."

19 SECTION 5. The benefit to be provided by health
 20 maintenance organizations corresponding to the benefit provided
 21 under section 431:10A- , Hawaii Revised Statutes, as contained
 22 in the amendment to section 432D-23, Hawaii Revised Statutes, in



1 section 4 of this Act, shall take effect for all policies,
2 contracts, plans, or agreements issued in the State after
3 December 31, 2009.

4 SECTION 6. Every insurer and mutual benefit society shall
5 provide the information required in section 431:10A- (b) and
6 section 432:1- (b), Hawaii Revised Statutes, to policyholders
7 and members, respectively, no later than December 31, 2009.

8 SECTION 7. (a) There is established in the department of
9 health for administrative purposes, a temporary early
10 intervention services benefits and coverage task force. The
11 children with special health needs branch shall be responsible
12 for administering the work of the temporary task force,
13 providing a facilitator, and submitting a report to the
14 legislature. The goals of the temporary task force shall be to
15 discuss and seek input on the problems faced by parents of
16 children who receive medically necessary early intervention
17 services and what can be done to ensure that proper benefits and
18 services are provided through public and private resources to
19 address the special needs of children who receive medically
20 necessary early intervention services, including providing
21 services involving applied behavioral analyses techniques.



1 (b) The members of the temporary early intervention
2 services benefits and coverage task force shall consist of ten
3 members as follows:

4 (1) A member of the house of representatives appointed by
5 the speaker of the house of representatives;

6 (2) A member of the senate appointed by the president of
7 the senate;

8 (3) The superintendent of education or the
9 superintendent's designee;

10 (4) The director of human services or the director's
11 designee;

12 (5) The director of health or the director's designee;

13 (6) The insurance commissioner or the insurance
14 commissioner's designee;

15 (7) The chief executive officer of the Hawaii Medical
16 Service Association or the chief executive officer's
17 designee;

18 (8) Two parents of children who receive medically
19 necessary early intervention services appointed by the
20 governor; and

21 (9) A private medical provider, licensed to practice in
22 Hawaii, whose practice includes the treatment of



1 infants and toddlers with special needs from birth to
2 age three, appointed by the governor.

3 (c) The members of the task force shall select the
4 chairperson of the task force from among themselves and shall be
5 reimbursed for expenses, including travel expenses, necessary
6 for the performance of their duties.

7 (d) The task force shall submit a report of its findings
8 and recommendations, including any proposed legislation, to the
9 legislature no later than twenty days prior to the convening of
10 the regular session of 2010.

11 SECTION 8. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect on July 1, 2009;
14 provided that section 7 of this Act shall be repealed on
15 June 30, 2010.

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INTRODUCED BY: Theranne Chun Oakland

J.L.M.
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Report Title:

Mandatory Health Coverage; Early Intervention Services

Description:

Requires all health insurers, mutual benefit societies, and health maintenance organizations to provide mandatory coverage for all policyholders, members, subscribers, and individuals from birth to age three for medically necessary early intervention services.

