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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1           SECTION 1. The legislature finds that the department of  
2 health has recently implemented administrative rules that narrow  
3 the scope of people who are eligible to receive continuing  
4 services from the adult mental health division. The legislature  
5 further finds that these restrictive rules leave many people  
6 with mental health needs without access to mental health  
7 services.

8           The legislature further finds that the administrative rules  
9 implemented by the department of health provide that even if an  
10 individual otherwise has a qualifying diagnosis, that individual  
11 is ineligible for any services if the individual has any form of  
12 health insurance coverage. Yet, most health insurance policies  
13 pay only for medical or psychiatric treatment as opposed to the  
14 range of services otherwise offered by the department of health.  
15 Certainly it is appropriate for the State to be the payer of  
16 last resort, such that if private insurance can cover the cost  
17 of psychiatric treatment there is no reason for the department  
18 of health to provide or pay for such treatment. However, this



1 rule results in an arbitrary, irrational situation whereby an  
2 individual who otherwise has a severe and persistent mental  
3 illness will not receive any services (such as case management,  
4 clubhouse services, or supported housing) from the adult mental  
5 health division, simply because they happen to have private  
6 insurance, notwithstanding the fact that the private insurance  
7 they possess does not cover those services that they may be  
8 seeking.

9 The purpose of this Act is to:

- 10 (1) Require the adult mental health division of the  
11 department of health to provide services to people who  
12 have a qualifying diagnosis;
- 13 (2) Allow the department of health to bill an insurer for  
14 treatment services rendered by the State pursuant to  
15 chapter 334, Hawaii Revised Statutes;
- 16 (3) Make the department of health eligible to receive  
17 reimbursement from an insurer in exchange for  
18 treatment services rendered by the State pursuant to  
19 chapter 334, Hawaii Revised Statutes; and
- 20 (4) Provide that a person who has a qualifying diagnosis  
21 shall be eligible to receive services that are offered



1 by the adult mental health division and that are not  
2 covered by an insurance policy.

3 SECTION 2. Section 334-1, Hawaii Revised Statutes, is  
4 amended by adding two new definitions to be appropriately  
5 inserted and to read as follows:

6 "Qualifying diagnosis" means one of the following  
7 diagnoses:

- 8 (1) Schizophrenia and other psychotic disorders;
- 9 (2) Mood disorders, including recurrent major depressive  
10 disorder and bipolar disorders;
- 11 (3) Anxiety disorders, including panic disorder with  
12 agoraphobia, obsessive-compulsive disorder, and  
13 posttraumatic stress disorder;
- 14 (4) Borderline personality disorder;
- 15 (5) Substance-related disorders that do not resolve in  
16 thirty days, including alcohol-induced psychotic  
17 disorder, amphetamine-induced psychotic disorder,  
18 cannabis-induced psychotic disorder, cocaine-induced  
19 psychotic disorder, hallucinogen-induced psychotic  
20 disorder, inhalant-induced psychotic disorder,  
21 opioid-induced psychotic disorder,  
22 phencyclidine-induced psychotic disorder, sedative-,



1           hypnotic-, or anxiolytic-induced psychotic disorder,  
2           and other or unknown substance-induced psychotic  
3           disorders; and

4           (6) Co-occurring disorders, including persons with severe  
5           and persistent mental illness and a substance abuse  
6           disorder, and persons with severe and persistent  
7           mental illness and diagnosis of mild mental  
8           retardation.

9           "Severe and persistent mental illness" means a qualified  
10          diagnosis, as defined in this section, that results in  
11          emotional, cognitive, or behavioral functioning that is so  
12          impaired as to substantially interfere with a person's capacity  
13          to remain in the community without treatment, and that results  
14          in a long-term limitation in a person's functional capacities  
15          for the primary activities of daily living."

16          SECTION 3. Section 334-3, Hawaii Revised Statutes, is  
17          amended by amending subsection (c) to read as follows:

18          "(c) The department shall specifically:

19          (1) Perform statewide assessments of the need for  
20                  prevention, treatment, and rehabilitation services in  
21                  the areas of mental or emotional disorders and  
22                  substance abuse;



- 1           (2)    Adopt rules pursuant to chapter 91 for establishing
- 2                    the number and boundaries of the geographical service
- 3                    areas for the delivery of services in the areas of
- 4                    mental or emotional disorders and substance abuse.
- 5                    The department shall periodically review the
- 6                    effectiveness of the geographical service areas in
- 7                    promoting accessibility and continuity of appropriate
- 8                    care to all residents of that geographical area;
- 9           (3)    Appoint a service area administrator in each county
- 10                   who shall be responsible for the development,
- 11                   delivery, and coordination of services in that area;
- 12           (4)    Ensure statewide and community-based planning for the
- 13                   ongoing development and coordination of the service
- 14                   delivery system as guided by needs assessment data and
- 15                   performance related information;
- 16           (5)    Establish standards and rules for psychiatric
- 17                   facilities and their licensing, where applicable;
- 18           (6)    Establish standards and rules for services in the
- 19                   areas of mental health and substance abuse treatment,
- 20                   including assurances of the provision of minimum
- 21                   levels of accessible service to persons of all ages,
- 22                   ethnic groups, and geographical areas in the State;

- 1 (7) Ensure community involvement in determining the  
2 service delivery arrangements appropriate to each  
3 community of the State;
- 4 (8) Cooperate with public and private health, education,  
5 and human service groups, agencies, and institutions  
6 in establishing a coordinated system to meet the needs  
7 of persons with mental or emotional disorders and  
8 substance abuse difficulties;
- 9 (9) Evaluate and monitor all services in the fields of  
10 mental health and substance abuse where such services  
11 are supported fully or in part by state resources;
- 12 (10) Promote and conduct research, demonstration projects,  
13 and studies concerned with the nature, prevention,  
14 intervention, and consequences of mental or emotional  
15 disorders and substance abuse;
- 16 (11) Keep records, statistical data, and other information  
17 as may be necessary in carrying out the functions of  
18 the mental health system and this chapter;
- 19 (12) Advocate patients' rights in all psychiatric  
20 facilities in the State and investigate any grievances  
21 submitted to the department by any patient in a  
22 psychiatric facility, except as provided in section



1 334E-2(d). The department shall establish rules and  
2 procedures for the purpose of this paragraph within  
3 one year after January 1, 1985, and post the rules in  
4 a conspicuous manner and accessible place;

5 (13) Promote and conduct a systematic program of  
6 accountability for all services provided, funds  
7 expended, and activities carried out under its  
8 direction or support in accordance with sound  
9 business, management, and scientific principles;

10 (14) Coordinate mental health resources in each county of  
11 the State by the development and presentation of a  
12 comprehensive integrated service area plan developed  
13 by the service area administrator in conjunction with  
14 the service area board. The service area  
15 administrator and the service area board, in  
16 collaboration with private and public agencies serving  
17 their population, shall submit recommendations for the  
18 statewide comprehensive integrated service plan,  
19 including needs assessment, program planning, resource  
20 development, priorities for funding, monitoring, and  
21 accountability activities;



- 1 (15) Oversee and coordinate service area programs and
- 2 provide necessary administrative and technical
- 3 assistance to assist service area programs in meeting
- 4 their program objectives; [~~and~~]
- 5 (16) Provide staffing to the state council and service area
- 6 boards to assist in the performance of their
- 7 functions[-]; and
- 8 (17) Provide services to persons who have a qualifying
- 9 diagnosis; provided that notwithstanding any law or
- 10 rules adopted by the department to the contrary, any
- 11 person who has a qualifying diagnosis shall be
- 12 eligible to receive services that are offered by the
- 13 department of health's adult mental health division
- 14 and are not covered by any insurance policy held by or
- 15 for the benefit of that person."

16 SECTION 4. Section 334-6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§334-6 Fees; payment of expenses for treatment services.**

19 (a) Pursuant to chapter 91, the director shall establish  
20 reasonable charges for treatment services and may make  
21 collections on such charges. In making the collections on such  
22 charges the director shall take into consideration the financial



1 circumstances of the patient and the patient's family including  
2 a reciprocal beneficiary, and no collections shall be made where  
3 in the judgment of the director, such collections would tend to  
4 make the patient or the patient's family including a reciprocal  
5 beneficiary, a public charge or deprive the patient and the  
6 patient's family including a reciprocal beneficiary, of  
7 necessary support.

8 (b) Every person hospitalized at a psychiatric facility or  
9 receiving treatment services through a community mental health  
10 center under the jurisdiction of the State or a county, or at a  
11 psychiatric facility or through a community mental health center  
12 which derives more than fifty per cent of its revenues from the  
13 general fund of the State, or pursuant to contract with the  
14 director under section 334-2.5, shall be liable for the expenses  
15 attending their reception, maintenance, and treatment and any  
16 property not exempt from execution belonging to the person shall  
17 be subject to sequestration for the payment of the expenses.

18 Every parent or legal guardian of a patient who is a minor and  
19 every spouse or reciprocal beneficiary of a patient shall be  
20 liable for the expenses attending the reception, maintenance,  
21 and treatment of that minor child or spouse or reciprocal  
22 beneficiary who is hospitalized at a psychiatric facility or



1 receiving treatment through a community mental health center  
2 under the jurisdiction of the State or a county, or at a  
3 psychiatric facility or through a community mental health center  
4 which derives more than fifty per cent of its revenues from the  
5 general fund of the State, or pursuant to contract with the  
6 director under section 334-2.5.

7 (c) The department:

8 (1) May bill an insurer for treatment services rendered by  
9 the State pursuant to this chapter; and

10 (2) Shall be eligible to receive reimbursement from an  
11 insurer billed in accordance with this section."

12 SECTION 5. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$6,000,000 or so much  
14 thereof as may be necessary for fiscal year 2012-2013 for the  
15 department of health to provide additional mental health  
16 services.

17 The sum appropriated shall be expended by the department of  
18 health for the purposes of this Act.

19 SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on July 1, 2012.



**Report Title:**

Mental Health; Adult Mental Health Division; Department of Health; Appropriation

**Description:**

Requires the adult mental health division of the department of health to provide services to people with a qualifying diagnosis, including services that are not covered by an insurance policy held by or for the benefit of the individual who seeks services. Allows the department of health to bill and receive reimbursement from an insurer for treatment services rendered by the State pursuant to chapter 334, HRS. Appropriates funds for the department of health to cover additional services. (SD1)

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

