
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 **PART I**

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

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



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

8 The purpose of this part is to:

- 9 (1) Require the adult mental health division of the
10 department of health to provide services to persons
11 who have a qualifying diagnosis;
- 12 (2) Allow the department of health to bill an insurer for
13 treatment services provided by the State pursuant to
14 chapter 334, Hawaii Revised Statutes;
- 15 (3) Make the department of health eligible to receive
16 reimbursement from an insurer in exchange for
17 treatment services provided by the State pursuant to
18 chapter 334, Hawaii Revised Statutes; and
- 19 (4) Provide that a person who has a qualifying diagnosis
20 shall be eligible to receive services that are offered
21 by the adult mental health division and that are not
22 covered by an insurance policy.



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

4 ""Qualifying diagnosis" means one of the following
5 diagnoses:

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



1 and other or unknown substance-induced psychotic
2 disorders; and
3 (6) Co-occurring disorders, including persons with severe
4 and persistent mental illness and a substance abuse
5 disorder, and persons with severe and persistent
6 mental illness and diagnosis of mild intellectual
7 disability.

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

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

17 "(c) The department shall specifically:
18 (1) Perform statewide assessments of the need for
19 prevention, treatment, and rehabilitation services in
20 the areas of mental or emotional disorders and
21 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~~] the
11 services are supported fully or in part by state
12 resources;
- 13 (10) Promote and conduct research, demonstration projects,
14 and studies concerned with the nature, prevention,
15 intervention, and consequences of mental or emotional
16 disorders and substance abuse;
- 17 (11) Keep records, statistical data, and other information
18 as may be necessary in carrying out the functions of
19 the mental health system and this chapter;
- 20 (12) Advocate patients' rights in all psychiatric
21 facilities in the State and investigate any grievances
22 submitted to the department by any patient in a



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

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

11 (14) Coordinate mental health resources in each county of
12 the State by the development and presentation of a
13 comprehensive integrated service area plan developed
14 by the service area administrator in conjunction with
15 the service area board. The service area
16 administrator and the service area board, in
17 collaboration with private and public agencies serving
18 their population, shall submit recommendations for the
19 statewide comprehensive integrated service plan,
20 including needs assessment, program planning, resource
21 development, priorities for funding, monitoring, and
22 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 rule 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~~] the charges. In making the collections on
22 [~~such~~] the charges, the director shall take into consideration



1 the financial circumstances of the patient and the patient's
2 family including a reciprocal beneficiary, and no collections
3 shall be made where in the judgment of the director, [~~such~~] the
4 collections would tend to make the patient or the patient's
5 family including a reciprocal beneficiary, a public charge or
6 deprive the patient and the patient's family including a
7 reciprocal beneficiary, of 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 provided 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 \$ 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 **PART II**

20 SECTION 6. The legislature finds that youth that are in
21 the justice system and face emotional and behavioral challenges
22 may not have the necessary mental health services and treatments



1 they need. Many of these youth, approximately eighty per cent,
2 are involved in drugs and either dropped out of school or aged
3 out of the educational system. These youth may be directed by
4 the court to obtain mental health services, but are no longer
5 eligible to receive mental health services from the department
6 of health.

7 The purpose of this part is to require the department of
8 health to ensure that children receive the treatment and
9 rehabilitative services they need to reach their proper and full
10 development regardless of whether the child or youth is enrolled
11 in school.

12 SECTION 7. Section 321-174, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§321-174 Coordination of services with department of**
15 **education.** (a) The children's mental health services team
16 shall cooperate with the schools located in their particular
17 geographic region in identifying and referring for treatment
18 such children or youths in need of mental health services. In
19 conjunction with the children's mental health services team, the
20 department of education and the department of health shall
21 develop a memorandum of agreement, which shall provide for a



1 sharing of responsibilities for the affected agencies and shall
2 include but not be limited to provisions for:

3 (1) Accepting referrals from the school counselors and
4 diagnostic teams for evaluation and direct treatment
5 of children and youth suffering from mental and
6 emotional disorders;

7 (2) Providing consultation to enable teachers and other
8 school personnel to aid in the identification and
9 screening of children in need of professional mental
10 health services and the services of psychologists, as
11 defined in chapter 465;

12 (3) Providing training and education about emotional
13 disturbances of children to teachers, school
14 counselors, and parents;

15 (4) Assisting the department of education with mental
16 health services and the services of psychologists, as
17 defined in chapter 465 for handicapped children;

18 (5) Developing an ongoing mechanism to assess, document
19 and report to the legislature and the governor unmet
20 needs for mental health services for students in each
21 geographic region; and



1 (6) Performing other related services for school
2 personnel, children, and parents.

3 (b) The department of health and the department of
4 education shall create an individualized education plan or
5 modification plan for children and youth with challenging
6 behaviors who may suffer from mental and emotional disorders.
7 The plan may identify and address challenging behaviors that
8 interfere with a child's or youth's learning and may consist of
9 strategies and supports to help the child or youth benefit from
10 the education received at a school, individualized behavioral
11 supports, intervention strategies, and measurable objectives.

12 (c) All children and youth, ages three to twenty-one,
13 shall be eligible for an individualized education plan or
14 modification plan to receive mental health services, regardless
15 of school enrollment status."

16 **PART III**

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

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

Description:

Requires the adult mental health division of DOH 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 DOH to bill and receive reimbursement from an insurer for treatment services rendered by the State pursuant to chapter 334, HRS. Appropriates unspecified funds for DOH to cover additional services. Requires DOH to ensure that children receive necessary treatment and rehabilitative services, regardless of school enrollment. Effective 7/1/2050. (SD2)

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

