
A BILL FOR AN ACT

RELATING TO HEALTH.

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 insurance coverage of treatment for autism spectrum
4 disorders.

5 SECTION 2. This Act shall be known and may be cited as
6 "Luke's Law".

7 SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended
8 by adding a new section to article 10A to be appropriately
9 designated and to read as follows:

10 "§431:10A- Autism spectrum disorders benefits and
11 coverage; notice; definitions. (a) Each individual or group
12 accident and health or sickness insurance policy, contract,
13 plan, or agreement issued or renewed in this State on or after
14 July 1, 2014, shall provide to the policyholder and individuals
15 under twenty-one years of age covered under the policy,
16 contract, plan, or agreement coverage for the screening,
17 including well-baby and well-child screening, diagnosis, and
18 evidence-based treatment of autism spectrum disorders.



1 Nothing in this section shall be construed to require such
2 coverage in a medicaid plan.

3 (b) Every insurer shall provide written notice to its
4 policyholders regarding the coverage required by this section.
5 The notice shall be prominently positioned in any literature or
6 correspondence sent to policyholders and shall be transmitted to
7 policyholders within calendar year 2014 when annual information
8 is made available to policyholders or in any other mailing to
9 policyholders, but in no case later than December 31, 2014.

10 (c) Individual coverage for behavioral health treatment
11 provided under this section shall be subject to a maximum
12 benefit of \$50,000 per year and a maximum lifetime benefit of
13 \$300,000, but shall not be subject to any limits on the number
14 of visits to an autism service provider. After December 31,
15 2015, the insurance commissioner, on an annual basis, shall
16 adjust the maximum benefit for inflation using the medical care
17 component of the United States Department of Labor Consumer
18 Price Index for all urban consumers; provided that the
19 commissioner may post notice of and hold a public meeting
20 pursuant to chapter 92 before adjusting the maximum benefit.
21 The commissioner shall publish the adjusted maximum benefit no
22 later than April 1 of each calendar year, which shall apply



1 during the following calendar year to policies, contracts,
2 plans, and agreements subject to this section. Payments made by
3 an insurer on behalf of a covered individual for any care,
4 treatment, intervention, or service other than behavioral health
5 treatment shall not be applied toward any maximum benefit
6 established under this subsection.

7 (d) Coverage under this section may be subject to
8 copayment, deductible, and coinsurance provisions of an accident
9 and health or sickness insurance policy, contract, plan, or
10 agreement that are no less favorable than the copayment,
11 deductible, and coinsurance provisions for substantially all
12 other medical services covered by the policy, contract, plan, or
13 agreement.

14 (e) This section shall not be construed as limiting
15 benefits that are otherwise available to an individual under an
16 accident and health or sickness insurance policy, contract,
17 plan, or agreement.

18 (f) Coverage for treatment under this section shall not be
19 denied on the basis that the treatment is habilitative or non-
20 restorative in nature.

21 (g) Except for inpatient services, if an individual is
22 receiving treatment for autism spectrum disorders, an insurer



1 may request a review of that treatment not more than once every
2 twelve months unless the insurer and the individual's licensed
3 physician, psychiatrist, psychologist, clinical social worker,
4 or nurse practitioner agree that a more frequent review is
5 necessary. Any such agreement regarding the right to review a
6 treatment plan more frequently shall apply only to a particular
7 insured being treated for autism spectrum disorders by a
8 licensed physician, psychiatrist, psychologist, clinical social
9 worker, or nurse practitioner. The cost of obtaining any review
10 shall be borne by the insurer.

11 (h) This section shall not be construed as reducing any
12 obligation to provide services to an individual under an
13 individualized family service plan, an individualized education
14 program, or an individualized service plan.

15 (i) Nothing in this section shall apply to accident-only,
16 specified disease, hospital indemnity, qualified health plans as
17 defined in section 1301 of the Patient Protection and Affordable
18 Care Act, Medicare supplement, disability income, long-term
19 care, or other limited benefit hospital insurance policies.

20 (j) Insurers shall include in their network of approved
21 autism service providers only those providers who have cleared
22 criminal background checks as determined by the insurer.



1 (k) Insurers shall include at least as many board-
2 certified behavior analysts as there are qualified licensed
3 psychologists in their network of approved providers of applied
4 behavior analysis.

5 (l) If an individual has been diagnosed as having a
6 pervasive developmental disorder or an autism spectrum disorder,
7 then that individual shall not be required to undergo repeat
8 evaluation upon publication of a subsequent edition of the
9 Diagnostic and Statistical Manual of Mental Disorders to remain
10 eligible for coverage under this section.

11 (m) Coverage for applied behavior analysis shall include
12 the services of the personnel who work under the supervision of
13 a board-certified behavior analyst or licensed psychologist
14 overseeing the program.

15 (n) As used in this section, unless the context clearly
16 requires otherwise:

17 "Applied behavior analysis" means the design,
18 implementation, and evaluation of environmental modifications,
19 using behavioral stimuli and consequences, to produce socially
20 significant improvement in human behavior, including the use of
21 direct observation, measurement, and functional analysis of the
22 relationship between environment and behavior. The practice of



1 applied behavior analysis expressly excludes psychological
2 testing, diagnosis of a mental or physical disorder,
3 neuropsychology, psychotherapy, cognitive therapy, sex therapy,
4 psychoanalysis, hypnotherapy, and long-term counseling as
5 treatment modalities.

6 "Autism service provider" means any person, entity, or
7 group that provides treatment for autism spectrum disorders.

8 "Autism spectrum disorders" means any of the pervasive
9 developmental disorders or autism spectrum disorders as defined
10 by the most recent edition of the Diagnostic and Statistical
11 Manual of Mental Disorders.

12 "Behavioral health treatment" means evidence-based
13 counseling and treatment programs, including applied behavior
14 analysis, that are:

15 (1) Necessary to develop, maintain, or restore, to the
16 maximum extent practicable, the functioning of an
17 individual; and

18 (2) Provided or supervised by a board-certified behavior
19 analyst or by a licensed psychologist so long as the
20 services performed are commensurate with the
21 psychologist's formal university training and
22 supervised experience.



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

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

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

12 "Therapeutic care" means services provided by licensed
13 speech pathologists, registered occupational therapists,
14 licensed social workers, licensed clinical social workers, or
15 licensed physical therapists.

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

22 (1) Behavioral health treatment;



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

5 SECTION 4. Chapter 432, Hawaii Revised Statutes, is amended
6 by adding a new section to article 1 to be appropriately
7 designated and to read as follows:

8 "§432:1 Autism spectrum disorders benefits and coverage;
9 notice; definitions. (a) Each individual or group hospital or
10 medical service plan, policy, contract, or agreement issued or
11 renewed in this State on or after July 1, 2014, shall provide to
12 the member and individuals under twenty-one years of age covered
13 under the plan, policy, contract, or agreement coverage for the
14 screening, including well-baby and well-child screening,
15 diagnosis, and evidence-based treatment of autism spectrum
16 disorders. Nothing in this section shall be construed to
17 require such coverage in a medicaid plan.

18 (b) Every mutual benefit society shall provide written
19 notice to its members regarding the coverage required by this
20 section. The notice shall be prominently positioned in any
21 literature or correspondence sent to members and shall be
22 transmitted to members within calendar year 2014 when annual



1 information is made available to members or in any other mailing
2 to members, but in no case later than December 31, 2014.

3 (c) Individual coverage for behavioral health treatment
4 provided under this section shall be subject to a maximum
5 benefit of \$50,000 per year and a maximum lifetime benefit of
6 \$300,000, but shall not be subject to any limits on the number
7 of visits to an autism service provider. After December 31,
8 2015, the insurance commissioner, on an annual basis, shall
9 adjust the maximum benefit for inflation, using the medical care
10 component of the United States Department of Labor Consumer
11 Price Index for all urban consumers. The commissioner shall
12 publish the adjusted maximum benefit no later than April 1 of
13 each calendar year, which shall apply during the following
14 calendar year to plans, policies, contracts, and agreements
15 subject to this section; provided that the commissioner may post
16 notice of and hold a public meeting pursuant to chapter 92
17 before adjusting the maximum benefit. Payments made by a mutual
18 benefit society on behalf of a covered individual for any care,
19 treatment, intervention, or service other than behavioral health
20 treatment, shall not be applied toward any maximum benefit
21 established under this subsection.



1 (d) Coverage under this section may be subject to
2 copayment, deductible, and coinsurance provisions of an
3 individual or group hospital or medical service plan, policy,
4 contract, or agreement that are no less favorable than the
5 copayment, deductible, and coinsurance provisions for
6 substantially all other medical services covered by the plan,
7 policy, contract, or agreement.

8 (e) This section shall not be construed as limiting
9 benefits that are otherwise available to an individual under an
10 individual or group hospital or medical service plan, policy,
11 contract, or agreement.

12 (f) Coverage for treatment under this section shall not be
13 denied on the basis that the treatment is habilitative or non-
14 restorative in nature.

15 (g) Except for inpatient services, if an individual is
16 receiving treatment for autism spectrum disorders, a mutual
17 benefit society may request a review of that treatment not more
18 than once every twelve months unless the mutual benefit society
19 and the individual's licensed physician, psychiatrist,
20 psychologist, clinical social worker, or nurse practitioner
21 agree that a more frequent review is necessary. Any such
22 agreement regarding the right to review a treatment plan more



1 frequently shall apply only to a particular covered individual
2 being treated for autism spectrum disorder by a licensed
3 physician, psychiatrist, psychologist, clinical social worker,
4 or nurse practitioner. The cost of obtaining any review shall
5 be borne by the mutual benefit society.

6 (h) This section shall not be construed to reduce any
7 obligation to provide services to an individual under an
8 individualized family service plan, an individualized education
9 program, or an individualized service plan.

10 (i) Nothing in this section shall apply to accident-only,
11 specified disease, hospital indemnity, qualified health plans as
12 defined in section 1301 of the Patient Protection and Affordable
13 Care Act, Medicare supplement, disability income, long-term
14 care, or other limited benefit hospital insurance policies.

15 (j) Mutual benefit societies shall include in their
16 network of approved autism service providers only those
17 providers who have cleared criminal background checks as
18 determined by the mutual benefit society.

19 (k) Mutual benefit societies shall include at least as
20 many board-certified behavior analysts as there are qualified
21 licensed psychologists in their network of approved providers
22 of applied behavior analysis.



1 (l) If an individual has been diagnosed as having a
2 pervasive developmental disorder or an autism spectrum disorder,
3 then that individual shall not be required to undergo a repeat
4 evaluation upon publication of a subsequent edition of the
5 Diagnostic and Statistical Manual of Mental Disorders to remain
6 eligible for coverage under this section.

7 (m) Coverage for applied behavior analysis shall include
8 the services of the personnel who work under the supervision of
9 a board-certified behavior analyst or licensed psychologist
10 overseeing the program.

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

13 "Applied behavior analysis" means the design,
14 implementation, and evaluation of environmental modifications,
15 using behavioral stimuli and consequences, to produce socially
16 significant improvement in human behavior, including the use of
17 direct observation, measurement, and functional analysis of the
18 relationship between environment and behavior. The practice of
19 applied behavior analysis expressly excludes psychological
20 testing, diagnosis of a mental or physical disorder,
21 neuropsychology, psychotherapy, cognitive therapy, sex therapy,



1 psychoanalysis, hypnotherapy, and long-term counseling as
2 treatment modalities.

3 "Autism service provider" means any person, entity, or
4 group that provides treatment for autism spectrum disorders.

5 "Autism spectrum disorders" means any of the pervasive
6 developmental disorders or autism spectrum disorders as defined
7 by the most recent edition of the Diagnostic and Statistical
8 Manual of Mental Disorders.

9 "Behavioral health treatment" means evidence-based
10 counseling and treatment programs, including applied behavior
11 analysis, that are:

12 (1) Necessary to develop, maintain, or restore, to the
13 maximum extent practicable, the functioning of an
14 individual; and

15 (2) Provided or supervised by a board-certified behavior
16 analyst or by a licensed psychologist so long as the
17 services performed are commensurate with the
18 psychologist's formal university training and
19 supervised experience.

20 "Diagnosis of autism spectrum disorders" means medically
21 necessary assessments, evaluations, or tests conducted to
22 diagnose whether an individual has an autism spectrum disorder.



1 "Pharmacy care" means medications prescribed by a licensed
2 physician or nurse practitioner and any health-related services
3 that are deemed medically necessary to determine the need for or
4 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 "Therapeutic care" means services provided by licensed
10 speech pathologists, registered occupational therapists,
11 licensed social workers, licensed clinical social workers, or
12 licensed physical therapists.

13 "Treatment for autism spectrum disorders" includes the
14 following care prescribed or ordered for an individual with an
15 autism spectrum disorder by a licensed physician, psychiatrist,
16 psychologist, licensed clinical social worker, or nurse
17 practitioner if the care is determined to be medically
18 necessary:

19 (1) Behavioral health treatment;

20 (2) Pharmacy care;

21 (3) Psychiatric care;

22 (4) Psychological care; and



1 (5) Therapeutic care."

2 SECTION 5. Section 432D-23, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§432D-23 Required provisions and benefits.

5 Notwithstanding any provision of law to the contrary, each
6 policy, contract, plan, or agreement issued in the State after
7 January 1, 1995, by health maintenance organizations pursuant to
8 this chapter, shall include benefits provided in sections
9 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
10 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121,
11 431:10A-125, 431:10A-126, 431:10A-122, [and] 431:10A-116.2, and
12 431:10A-___, and chapter 431M."

13 SECTION 6. Notwithstanding section 432D-23, Hawaii Revised
14 Statutes, the coverage and benefit for autism spectrum disorders
15 to be provided by a health maintenance organization under section 5
16 of this Act shall apply to all policies, contracts, plans, or
17 agreements issued or renewed in this State by a health maintenance
18 organization on or after July 1, 2014.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 8. If any provision of this Act, or the application
22 thereof to any person or circumstance, is held invalid, the



1 invalidity does not affect other provisions or applications of
2 the Act that can be given effect without the invalid provision or
3 application, and to this end the provisions of this Act are
4 severable.

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



Report Title:

Mandatory Health Coverage; Autism Spectrum Disorders

Description:

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism spectrum disorder treatments. Effective July 1, 2050. (HB2174 HD1)

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

