
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 coverage of treatment for autism spectrum disorders.

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

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

9 "§431:10A- Autism spectrum disorders benefits and
10 coverage; notice; definitions. (a) Each individual or group
11 accident and health or sickness insurance policy, contract,
12 plan, or agreement issued or renewed in this State after
13 December 31, 2015, shall provide to the policyholder and
14 individuals under eighteen years of age covered under the
15 policy, contract, plan, or agreement, coverage for the
16 screening, including well-baby and well-child screening,
17 diagnosis, and evidence-based treatment of autism spectrum
18 disorders.



1 (b) Every insurer shall provide notice to its
2 policyholders regarding the coverage required by this section.
3 The notice shall be prominently positioned in any literature or
4 correspondence sent to policyholders and shall be transmitted to
5 policyholders within calendar year 2016 when annual information
6 is made available to members or in any other mailing to members,
7 but in no case later than December 31, 2016.

8 (c) Individual coverage for behavioral health treatment
9 provided under this section shall be subject to a maximum
10 benefit of \$50,000 per year and a maximum lifetime benefit of
11 \$300,000, but shall not be subject to any limits on the number
12 of visits to an autism service provider. After December 31,
13 2016, the insurance commissioner, on an annual basis, shall
14 adjust the maximum benefit for inflation using the medical care
15 component of the United States Bureau of Labor Consumer Price
16 Index for urban Honolulu; provided that the commissioner shall
17 post notice of and hold a public meeting in the same manner as
18 required by section 91-3(a) before adjusting the maximum
19 benefit. The commissioner shall publish the adjusted maximum
20 benefit annually no later than April 1 of each calendar year,
21 which shall apply during the following calendar year to health
22 insurance policies subject to this section. Payments made by an



1 insurer on behalf of a covered individual for any care,
2 treatment, intervention, or service other than behavioral health
3 treatment shall not be applied toward any maximum benefit
4 established under this subsection.

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

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

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

19 (g) Except for inpatient services, if an individual is
20 receiving treatment for autism spectrum disorders, an insurer
21 may request a review of that treatment. The cost of obtaining
22 any review shall be borne by the insurer.



1 (h) This section shall not be construed as reducing any
2 obligation to provide services to an individual under an
3 individualized family service plan, an individualized education
4 program, or an individualized service plan.

5 (i) Nothing in this section shall apply to non-
6 grandfathered plans in the individual and small group markets
7 that are required to include essential health benefits under the
8 Patient Protection and Affordable Care Act, Public Law 111-148,
9 as amended, or to medicare supplement, accident-only, specified
10 disease, hospital indemnity, disability income, long-term care,
11 or other limited benefit hospital insurance policies.

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

15 (k) Insurers shall include board certified behavior
16 analysts in their provider network.

17 (l) If an individual has been diagnosed as having an
18 autism spectrum disorder, then that individual shall not be
19 required to undergo repeat evaluation upon publication of a
20 subsequent edition of the Diagnostic and Statistical Manual of
21 Mental Disorders to remain eligible for coverage under this
22 section.



1 (m) Coverage for applied behavior analysis shall include
2 the services of the personnel who work under the supervision of
3 the board certified behavior analyst or the licensed
4 psychologist overseeing the program.

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

7 "Applied behavior analysis" means the design,
8 implementation, and evaluation of environmental modifications,
9 using behavioral stimuli and consequences, to produce socially
10 significant improvement in human behavior, including the use of
11 direct observation, measurement, and functional analysis of the
12 relationship between environment and behavior. The practice of
13 applied behavior analysis expressly excludes psychological
14 testing, diagnosis of a mental or physical disorder,
15 neuropsychology, psychotherapy, cognitive therapy, sex therapy,
16 psychoanalysis, hypnotherapy, and long-term counseling as
17 treatment modalities.

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

20 "Autism spectrum disorders" means any of the pervasive
21 developmental disorders or autism spectrum disorders as defined



1 by the most recent edition of the Diagnostic and Statistical
2 Manual of Mental Disorders.

3 "Behavioral health treatment" means evidence-based
4 counseling and treatment programs, including applied behavior
5 analysis, that are:

6 (1) Necessary to develop, maintain, or restore, to the
7 maximum extent practicable, the functioning of an
8 individual; and

9 (2) Provided or supervised by a board certified behavior
10 analyst or by a licensed psychologist so long as the
11 services performed are commensurate with the
12 psychologist's formal university training and
13 supervised experience.

14 "Board certified behavior analyst" means a behavior analyst
15 credentialed by the Behavior Analyst Certification Board as a
16 board certified analyst.

17 "Diagnosis of autism spectrum disorders" means medically
18 necessary assessments, evaluations, or tests conducted to
19 diagnose whether an individual has an autism spectrum disorder.

20 "Pharmacy care" means medications prescribed by a licensed
21 physician or nurse practitioner and any health-related services



1 that are deemed medically necessary to determine the need or
2 effectiveness of the medications.

3 "Psychiatric care" means direct or consultative services
4 provided by a licensed psychiatrist.

5 "Psychological care" means direct or consultative services
6 provided by a licensed psychologist.

7 "Therapeutic care" means services provided by licensed
8 speech pathologists, registered occupational therapists,
9 licensed social workers, licensed clinical social workers, or
10 licensed physical therapists.

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

- 17 (1) Behavioral health treatment;
- 18 (2) Pharmacy care;
- 19 (3) Psychiatric care;
- 20 (4) Psychological care; and
- 21 (5) Therapeutic care."



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

4 "§432:1- Autism spectrum disorders benefits and
5 coverage; notice; definitions. (a) Each individual or group
6 hospital or medical service plan, policy, contract, or agreement
7 issued or renewed in this State after December 31, 2015, shall
8 provide to the member and individuals under eighteen years of
9 age covered under the service plan, policy, contract, or
10 agreement, coverage for the screening, including well-baby and
11 well-child screening, diagnosis, and evidence-based treatment of
12 autism spectrum disorders.

13 (b) Every mutual benefit society shall provide written
14 notice to its members regarding the coverage required by this
15 section. The notice shall be prominently positioned in any
16 literature or correspondence sent to members and shall be
17 transmitted to members within calendar year 2016 when annual
18 information is made available to members or in any other mailing
19 to members, but in no case later than December 31, 2016.

20 (c) Individual coverage for behavioral health treatment
21 provided under this section shall be subject to a maximum
22 benefit of \$50,000 per year and a maximum lifetime benefit of

1 \$300,000, but shall not be subject to any limits on the number
2 of visits to an autism service provider. After December 31,
3 2016, the insurance commissioner, on an annual basis, shall
4 adjust the maximum benefit for inflation, using the medical care
5 component of the United States Bureau of Labor Consumer Price
6 Index for urban Honolulu. The commissioner shall publish the
7 adjusted maximum benefit annually no later than April 1 of each
8 calendar year, which shall apply during the following calendar
9 year to health insurance policies subject to this section;
10 provided that the commissioner shall post notice of and hold a
11 public meeting in the same manner as required by section 91-3(a)
12 before adjusting the maximum benefit. Payments made by a mutual
13 benefit society on behalf of a covered individual for any care,
14 treatment, intervention, or service other than behavioral health
15 treatment, shall not be applied toward any maximum benefit
16 established under this subsection.

17 (d) Coverage under this section may be subject to
18 copayment, deductible, and coinsurance provisions of an
19 individual or group hospital or medical service plan, policy,
20 contract, or agreement that are no less favorable than the co-
21 payment, deductible, and coinsurance provisions for



1 substantially all other medical services covered by the service
2 plan, policy, contract, or agreement.

3 (e) This section shall not be construed as limiting
4 benefits that are otherwise available to an individual under an
5 individual or group hospital or medical service plan, policy,
6 contract, or agreement.

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

10 (g) Except for inpatient services, if an individual is
11 receiving treatment for autism spectrum disorders, an insurer
12 may request a review of that treatment. The cost of obtaining
13 any review shall be borne by the insurer.

14 (h) This section shall not be construed to reduce any
15 obligation to provide services to an individual under an
16 individualized family service plan, an individualized education
17 program, or an individualized service plan.

18 (i) Nothing in this section shall apply to non-
19 grandfathered plans in the individual and small group markets
20 that are required to include essential health benefits under the
21 Patient Protection and Affordable Care Act, Public Law 111-148,
22 as amended, or to medicare supplement, accident-only, specified



1 disease, hospital indemnity, disability income, long-term care,
2 or other limited benefit hospital insurance policies.

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

6 (k) Insurers shall include board certified behavior
7 analysts in their provider network.

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

14 (m) Coverage for applied behavior analysis shall include
15 the services of the personnel who work under the supervision of
16 the board certified behavior analyst or the licensed
17 psychologist overseeing the program.

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

20 "Applied behavior analysis" means the design,
21 implementation, and evaluation of environmental modifications,
22 using behavioral stimuli and consequences, to produce socially



1 significant improvement in human behavior, including the use of
2 direct observation, measurement, and functional analysis of the
3 relationship between environment and behavior. The practice of
4 applied behavior analysis expressly excludes psychological
5 testing, diagnosis of a mental or physical disorder,
6 neuropsychology, psychotherapy, cognitive therapy, sex therapy,
7 psychoanalysis, hypnotherapy, and long-term counseling as
8 treatment modalities.

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

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

15 "Behavioral health treatment" means evidence-based
16 counseling and treatment programs, including applied behavior
17 analysis, that are:

18 (1) Necessary to develop, maintain, or restore, to the
19 maximum extent practicable, the functioning of an
20 individual; and

21 (2) Provided or supervised by a board certified behavior
22 analyst or by a licensed psychologist so long as the



1 services performed are commensurate with the
2 psychologist's formal university training and
3 supervised experience.

4 "Board certified behavior analyst" means a behavior analyst
5 credentialed by the Behavior Analyst Certification Board as a
6 board certified analyst.

7 "Diagnosis of autism spectrum disorders" means medically
8 necessary assessments, evaluations, or tests conducted to
9 diagnose whether an individual has an autism spectrum disorder.

10 "Pharmacy care" means medications prescribed by a licensed
11 physician or nurse practitioner and any health-related services
12 that are deemed medically necessary to determine the need or
13 effectiveness of the medications.

14 "Psychiatric care" means direct or consultative services
15 provided by a licensed psychiatrist.

16 "Psychological care" means direct or consultative services
17 provided by a licensed psychologist.

18 "Therapeutic care" means services provided by licensed
19 speech pathologists, registered occupational therapists,
20 licensed social workers, licensed clinical social workers, or
21 licensed physical therapists.



1 "Treatment for autism spectrum disorders" includes the
2 following care prescribed or ordered for an individual with an
3 autism spectrum disorder by a licensed physician, psychiatrist,
4 psychologist, licensed clinical social worker, or nurse
5 practitioner if the care is determined to be medically
6 necessary:

- 7 (1) Behavioral health treatment;
8 (2) Pharmacy care;
9 (3) Psychiatric care;
10 (4) Psychological care; and
11 (5) Therapeutic care."

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

14 "**§432D-23 Required provisions and benefits.**

15 Notwithstanding any provision of law to the contrary, each
16 policy, contract, plan, or agreement issued in the State after
17 January 1, 1995, by health maintenance organizations pursuant to
18 this chapter, shall include benefits provided in sections
19 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
20 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
21 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~
22 ~~122, and 431:10A-116.2] and 431:10A-, and chapter 431M."~~



1 SECTION 6. (a) The University of Hawaii economic research
2 organization shall contract for the performance of an actuarial
3 analysis by a licensed actuary who is a member in good standing
4 with the American Academy of Actuaries of the projected costs of
5 providing insurance coverage for screening, diagnosis, and
6 treatment of autism spectrum disorders as required by this Act.

7 (b) The actuarial analysis shall:

8 (1) Include a statement by the actuary certifying that the
9 techniques and methods used are generally accepted
10 within the actuarial profession and that the
11 assumptions and cost estimates used are reasonable;

12 (2) Provide a financial analysis of the cost of providing
13 insurance coverage for screening, diagnosis, and
14 treatment of autism spectrum disorders as required by
15 this Act, including an estimate of the cost benefits
16 provided by this Act and the cost impact of this Act's
17 application to the Hawaii medicaid market; and

18 (3) Specifically consider the following factors and their
19 impact on the cost of providing insurance coverage or
20 medicaid coverage:



- 1 (A) The prevalence of autism spectrum disorders
- 2 compared to the treated prevalence of autism
- 3 spectrum disorders;
- 4 (B) The intensity and frequency of treatment provided
- 5 depending on the severity of the diagnosis of
- 6 autism spectrum disorders; and
- 7 (C) The tiered service delivery model of applied
- 8 behavior analysis as a treatment for autism
- 9 spectrum disorders.

10 (c) The actuarial analysis shall be completed and
11 submitted to the University of Hawaii economic research
12 organization in sufficient time for the University of Hawaii
13 economic research organization to submit a report to the
14 legislature, including findings, recommendations, and proposed
15 legislation, if any, based on the results of the actuarial
16 analysis no later than twenty days prior to the convening of the
17 regular session of 2015.

18 (d) For the purpose of contracting for the actuarial
19 analysis, the University of Hawaii economic research
20 organization shall be exempt from compliance with chapter 103D,
21 Hawaii Revised Statutes.



1 SECTION 7. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2014-2015 to
4 contract for the performance of the actuarial analysis required
5 under this Act.

6 The sum appropriated shall be expended by the University of
7 Hawaii for the purposes of this Act.

8 SECTION 8. Notwithstanding the amendments made to section
9 432D-23, Hawaii Revised Statutes, the coverage and benefits for
10 autism spectrum disorders to be provided by a health maintenance
11 organization under section 5 of this Act shall apply to all
12 policies, contracts, plans, or agreements issued or renewed in
13 this State by a health maintenance organization after December
14 31, 2015.

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Health; Insurance; 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. Requires an actuarial analysis to estimate the cost impact of providing autism spectrum disorder benefits. Effective July 1, 2050. (SB2054 HD2)

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

