

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. It is estimated that one in five hundred  
2 children in the State are born with orofacial anomalies such as  
3 cleft lip or cleft palate. Orthodontic services for the  
4 treatment of orofacial anomalies are not included as a benefit  
5 of commercial health plans. Without orthodontic treatment,  
6 appropriate care and reconstructive surgical outcomes are  
7 compromised and result in functional deficiencies in chewing,  
8 swallowing, respiration, speech, unstable or malpositioned oral  
9 structures, premature tooth loss, and other health problems.

10           Orthodontic services have for several years been a covered  
11 benefit of the Hawaii medicaid program.

12           The legislature finds that the state auditor's 2014 sunrise  
13 study on the advisability of mandating insurance coverage for  
14 orofacial anomalies, Report No. 14-08, found that coverage  
15 should be required as it would provide a substantial social  
16 benefit in exchange for a minimal cost to private insurers.  
17 Coverage would mitigate a significant financial hardship for



1 working families whose private medical insurance does not cover  
2 medically necessary orthodontic services for their children born  
3 with orofacial anomalies. The legislature further finds that  
4 overall treatment costs are not likely to increase due to the  
5 limited usage of those services by such a small portion of the  
6 general population.

7 The purpose of this Act is to promote quality health care  
8 procedures in the State by requiring health insurance coverage  
9 of medically necessary orthodontic treatment of orofacial  
10 anomalies.

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

14 "§431:10A- Orthodontic services for orofacial  
15 anomalies; benefits and coverage; notice. (a) Each individual  
16 and group accident and health or sickness insurance policy,  
17 contract, plan, or agreement issued or renewed in this State  
18 after December 31, 2015, shall provide to the policyholder and  
19 individuals under twenty-six years of age covered under the  
20 policy, contract, plan, or agreement, coverage of medically



1 necessary orthodontic services for the treatment of orofacial  
2 anomalies resulting from birth defects or syndromes.

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

10 (c) Orthodontic services for treatment of orofacial  
11 anomalies provided under this section shall be subject to a  
12 maximum benefit of \$5,500 per treatment phase, but shall not be  
13 subject to limits on the number of visits to an orthodontist.  
14 After December 31, 2016, the insurance commissioner, on an  
15 annual basis, shall adjust the maximum benefit for inflation  
16 using the medical care component of the United States Department  
17 of Labor Consumer Price Index for all urban consumers. The  
18 commissioner shall publish the adjusted maximum benefit annually  
19 no later than April 1 the following calendar year to accident  
20 and health or sickness insurance policies subject to this  
21 section. Payments made by an insurer on behalf of a covered



1 individual for any care, treatment, intervention, or service  
2 other than orthodontic services, shall not be applied toward any  
3 maximum benefit established under this subsection.

4 (d) Coverage under this section may be subject to  
5 copayment, deductible, and coinsurance provisions of an accident  
6 and health or sickness insurance policy that are no less  
7 favorable than the copayment, deductible, and coinsurance  
8 provisions for other medical services covered by the policy.

9 (e) This section shall not be construed as limiting  
10 benefits that are otherwise available to an individual under an  
11 accident and health or sickness insurance policy.

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) As of January 1, 2016, to the extent that this section  
16 requires benefits that exceed the essential health benefits  
17 specified under section 1302(b) of the Patient Protection and  
18 Affordable Care Act of 2010 (P.L. 111-148), the specific  
19 benefits that exceed the specified essential health benefits  
20 shall not be required of a qualified health plan when the plan  
21 is offered in this State through the Hawaii health insurance



1 exchange by a health carrier. Nothing in this subsection shall  
2 nullify the application of this section to plans offered outside  
3 the exchange.

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

6 "Orofacial anomalies" means cleft lip or cleft palate and  
7 other birth defects of the mouth and face affecting functions  
8 such as eating, chewing, speech, and respiration.

9 "Orthodontic services" mean direct or consultative services  
10 provided by a licensed orthodontist.

11 "Treatment for orofacial anomalies" includes the care  
12 prescribed, provided, or ordered for an individual diagnosed  
13 with an orofacial anomaly by a craniofacial team that includes a  
14 licensed dentist, orthodontist, oral surgeon, and physician, and  
15 is coordinated between specialists and providers."

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

19 **"§432:1- Orthodontic services for orofacial anomalies,**  
20 **benefits and coverage; notice.** (a) Notwithstanding any law to  
21 the contrary, each individual and group hospital or medical



1 service plan contract issued or renewed in this State after  
2 December 31, 2015, shall provide to the member and individuals  
3 under twenty-six years of age covered under the plan contract  
4 coverage for medically necessary orthodontic services for the  
5 treatment of orofacial anomalies resulting from birth defects or  
6 syndromes.

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

15 (c) Coverage provided under this section shall be subject  
16 to a maximum benefit of \$5,500 per treatment phase but shall not  
17 be subject to any limits on the number of visits to an  
18 orthodontist. After December 31, 2016, the insurance  
19 commissioner, on an annual basis, shall adjust the maximum  
20 benefit for inflation, using the medical care component of the  
21 United States Department of Labor Consumer Price Index for all



1 urban consumers. The commissioner shall publish the adjusted  
2 maximum benefit annually no later than April 1 of each calendar  
3 year, which shall apply during the following calendar year to  
4 the plan contracts subject to this section. Payments made by a  
5 mutual benefit society on behalf of a covered individual for any  
6 care, treatment, intervention, service, or item, the provision  
7 of which was for the treatment of a health condition unrelated  
8 to the covered individual's orofacial anomaly, shall not be  
9 applied toward any maximum benefit established under this  
10 subsection.

11 (d) Coverage under this section shall be subject to  
12 copayment, deductible, and coinsurance provisions of a plan  
13 contract to the extent that other medical services covered by  
14 the plan contract are subject to these provisions.

15 (e) This section shall not be construed as limiting  
16 benefits that are otherwise available to an individual under a  
17 plan contract.

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



1       "Orofacial anomalies" means cleft lip or cleft palate and  
2 other congenital anomalies of the mouth and face affecting  
3 functions such as eating, chewing, speech, and respiration.

4       "Orthodontic services" means direct or consultative  
5 services provided by a licensed orthodontist.

6       "Treatment for orofacial anomalies" includes the care  
7 prescribed, provided, or ordered for an individual diagnosed  
8 with an orofacial anomaly by a craniofacial team that includes a  
9 licensed dentist, orthodontist, oral surgeon, and physician, and  
10 is coordinated between specialists and providers."

11       SECTION 4. Section 432D-23, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       **"§432D-23 Required provisions and benefits.**

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





# S.B. NO. 306

1 SECTION 5. The coverage and benefits to be provided by a  
 2 health maintenance organization under section 4 of this Act  
 3 shall begin for all policies, contracts, plans, or agreements  
 4 issued in this State by a health maintenance organization after  
 5 December 31, 2015.

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

8 SECTION 7. This Act shall take effect upon its approval.  
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INTRODUCED BY:

Josh G

Amaly H Baker

Will Egan

SP Rivier

Russ E Pader

T. J. O'Neil  
Secretary



# S.B. NO. 306

**Report Title:**

Health Insurance; Orthodontic Treatment; Orofacial Anomalies

**Description:**

Requires health insurance coverage of orthodontic treatment for orofacial anomalies.

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

