

JAN 25 2012

S.B. NO. 2631

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# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

**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 procedures for all Hawaii  
3       residents by requiring coverage of and treatment for autism  
4       spectrum disorders.

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

8       "§431:10A-       Autism spectrum disorders benefits and  
9       coverage; notice; definitions. (a) Any other law to the  
10      contrary notwithstanding, each employer group health policy,  
11      contract, plan, or agreement issued or renewed in this State  
12      after December 31, 2012, shall provide to the policyholder and  
13      individuals under twenty-six years of age covered under the  
14      policy, contract, plan, or agreement, coverage for the  
15      screening, diagnosis, and treatment of autism spectrum  
16      disorders.

17      (b) Every insurer shall provide written notice to its  
18      members regarding the coverage required by this section. The



1 notice shall be in writing and prominently positioned in any  
2 literature or correspondence sent to members and shall be  
3 transmitted to members within calendar year 2013 when annual  
4 information is made available to members or in any other mailing  
5 to members, but in no case later than December 31, 2013.

6 (c) Coverage for behavioral health treatment provided  
7 under this section shall be subject to a maximum benefit of  
8 \$50,000 per year, but shall not be subject to any limits on the  
9 number of visits to an autism service provider. After  
10 December 31, 2015, the insurance commissioner, on an annual  
11 basis, shall adjust the maximum benefit for inflation using the  
12 medical care component of the United States Department of Labor  
13 Consumer Price Index for all urban consumers. The commissioner  
14 shall publish the adjusted maximum benefit annually no later  
15 than April 1 of each calendar year, which shall apply during the  
16 following calendar year to health insurance policies subject to  
17 this section. Payments made by an insurer on behalf of a  
18 covered individual for any care, treatment, intervention, or  
19 service other than behavioral health treatment, shall not be  
20 applied toward any maximum benefit established under this  
21 subsection.



1        (d) Coverage under this section may be subject to  
2        copayment, deductible, and coinsurance provisions of a health  
3        insurance policy that are no less favorable than the co-payment,  
4        deductible, and coinsurance provisions for other medical  
5        services covered by the policy.

6        (e) This section shall not be construed as limiting  
7        benefits that are otherwise available to an individual under a  
8        health insurance policy.

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

12       (g) Except for inpatient services, if an individual is  
13       receiving treatment for autism spectrum disorders, an insurer  
14       may request a review of that treatment not more than once every  
15       twelve months. The cost of obtaining any review shall be borne  
16       by the insurer.

17       (h) This section shall not be construed as reducing any  
18       obligation to provide services to an individual under an  
19       individualized family service plan, an individualized education  
20       program, or an individualized service plan.

21       (i) As of January 1, 2015, to the extent that this section  
22       requires benefits that exceed the essential health benefits



1 specified under section 1302(b) of the Patient Protection and  
2 Affordable Care Act of 2010 (P.L. 111-148), the specific  
3 benefits that exceed the specified essential health benefits  
4 shall not be required of a qualified health plan when the plan  
5 is offered in this State through the exchange by a health  
6 carrier. Nothing in this subsection shall nullify the  
7 application of this section to plans offered outside the  
8 exchange.

9 (j) As used in this section, unless the context clearly  
10 requires otherwise:

11 "Applied behavior analysis" means the design,  
12 implementation, and evaluation of environmental modifications,  
13 using behavioral stimuli and consequences, to produce socially  
14 significant improvement in human behavior, including the use of  
15 direct observation, measurement, and functional analysis of the  
16 relations between environment and behavior.

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

19 "Autism spectrum disorders" means any of the pervasive  
20 developmental disorders as defined by the most recent edition of  
21 the Diagnostic and Statistical Manual of Mental Disorders,  
22 including autistic disorder, Asperger's disorder, pervasive



1 developmental disorder not otherwise specified, Rett's disorder,  
2 and childhood disintegrative disorder.

3 "Behavioral health treatment" means professional,  
4 counseling, and guidance services and treatment programs,  
5 including applied behavior analysis, that are necessary to  
6 develop, maintain, and restore, to the maximum extent  
7 practicable, the functioning of an individual.

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

11 "Health insurance policy" means any group health, sickness,  
12 or accident policy or subscriber contract or certificate issued  
13 by an insurance entity subject to this section.

14 "Pharmacy care" means medications prescribed by a licensed  
15 physician or registered nurse practitioner and any health-  
16 related services that are deemed medically necessary to  
17 determine the need or effectiveness of the medications.

18 "Psychiatric care" means direct or consultative services  
19 provided by a licensed psychiatrist.

20 "Psychological care" means direct or consultative services  
21 provided by a licensed psychologist.



1       "Therapeutic care" means services provided by licensed  
2 speech pathologists, registered occupational therapists, or  
3 licensed physical therapists.

4       "Treatment for autism spectrum disorders" includes the  
5 following care prescribed, provided, or ordered for an  
6 individual diagnosed with an autism spectrum disorder by a  
7 licensed physician, psychiatrist, psychologist, or registered  
8 nurse practitioner if the care is determined to be medically  
9 necessary:

10       (1) Behavioral health treatment;

11       (2) Pharmacy care;

12       (3) Psychiatric care;

13       (4) Psychological care; and

14       (5) Therapeutic care."

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

18       **"§432:1- Autism spectrum disorders benefits and**  
19 **coverage; notice; definitions.** (a) Any other law to the  
20 contrary notwithstanding, each individual and group hospital or  
21 medical service plan, policy, contract, or agreement issued or  
22 renewed in this State after December 31, 2012, shall provide to



1 the member and individuals under twenty-six years of age covered  
2 under the service plan, policy, contract, or agreement, coverage  
3 for the diagnosis and treatment of autism spectrum disorders.

4 (b) Every mutual benefit society shall provide written  
5 notice to its members regarding the coverage required by this  
6 section. The notice shall be in writing and prominently  
7 positioned in any literature or correspondence sent to members  
8 and shall be transmitted to members within calendar year 2013  
9 when annual information is made available to members or in any  
10 other mailing to members, but in no case later than December 31,  
11 2013.

12 (c) Coverage provided under this section shall be subject  
13 to a maximum benefit of \$50,000 per year but shall not be  
14 subject to any limits on the number of visits to an autism  
15 service provider. After December 31, 2015, the insurance  
16 commissioner, on an annual basis, shall adjust the maximum  
17 benefit for inflation, using the medical care component of the  
18 United States Department of Labor Consumer Price Index for all  
19 urban consumers. The commissioner shall publish the adjusted  
20 maximum benefit annually no later than April 1 of each calendar  
21 year, which shall apply during the following calendar year to  
22 health insurance policies subject to this section. Payments



1 made by a mutual benefit society on behalf of a covered  
2 individual for any care, treatment, intervention, service, or  
3 item, the provision of which was for the treatment of a health  
4 condition unrelated to the covered individual's autism spectrum  
5 disorder, shall not be applied toward any maximum benefit  
6 established under this subsection.

7 (d) Coverage under this section shall be subject to  
8 copayment, deductible, and coinsurance provisions of a health  
9 insurance policy to the extent that other medical services  
10 covered by the policy are subject to these provisions.

11 (e) This section shall not be construed as limiting  
12 benefits that are otherwise available to an individual under a  
13 health insurance policy.

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

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





1       "Autism service provider" means any person, entity, or  
2 group that provides treatment of autism spectrum disorders.

3       "Autism spectrum disorders" means any of the pervasive  
4 developmental disorders as defined by the most recent edition of  
5 the Diagnostic and Statistical Manual of Mental Disorders,  
6 including autistic disorder, Asperger's disorder, pervasive  
7 developmental disorder not otherwise specified, Rett's disorder,  
8 and childhood disintegrative disorder.

9       "Behavioral health treatment" means professional,  
10 counseling and guidance services and treatment programs,  
11 including applied behavior analysis, that are necessary to  
12 develop, maintain, and restore, to the maximum extent  
13 practicable, the functioning of an individual.

14       "Diagnosis of autism spectrum disorders" means medically  
15 necessary assessments, evaluations, or tests conducted to  
16 diagnose whether an individual has an autism spectrum disorder.

17       "Health insurance policy" means any group health, sickness,  
18 or accident policy or subscriber contract or certificate issued  
19 by an insurance entity subject to this section.

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



1 related services that are deemed medically necessary to  
2 determine the need or 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, or  
9 licensed physical therapists.

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

16 (1) Behavioral health treatment;

17 (2) Pharmacy care;

18 (3) Psychiatric care;

19 (4) Psychological care; and

20 (5) Therapeutic care."

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



1       **"§432D-23 Required provisions and benefits.**

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

10       SECTION 5. The coverage and benefit to be provided by a  
11       health maintenance organization under section 4 of this Act  
12       shall begin for all policies, contracts, plans, or agreements  
13       issued in this State by a health maintenance organization after  
14       December 31, 2012.

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

17       SECTION 7. This Act shall take effect upon its approval.

18       INTRODUCED BY: 



# S.B. NO. 2631

**Report Title:**

Mandatory Health Coverage; Autism Spectrum Disorders

**Description:**

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide health care coverage and benefits for autism spectrum disorders beginning after 12/31/2012.

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

