
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 procedures for all Hawaii
3 residents by requiring coverage of and treatment for autism
4 spectrum 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
8 amended by adding a new section to article 10A to be
9 appropriately designated and to read as follows:

10 **"§431:10A- Autism spectrum disorders benefits and**
11 **coverage; notice; definitions.** (a) Subject to the provisions
12 of section 431:10A-102.5 each employer group accident and health
13 or sickness insurance policy, contract, plan, or agreement
14 issued or renewed in this State after December 31, 2013, shall
15 provide to the policyholder and individuals under twenty-six
16 years of age covered under the policy, contract, plan, or
17 agreement, coverage for the screening, diagnosis, and treatment
18 of autism spectrum disorders.



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

8 (c) Coverage for behavioral health treatment provided
9 under this section shall be subject to a maximum benefit of
10 \$50,000 per year, but shall not be subject to any limits on the
11 number of visits to an autism service provider. After
12 December 31, 2016, the insurance commissioner, on an annual
13 basis, shall adjust the maximum benefit for inflation using the
14 medical care component of the United States Department of Labor
15 Consumer Price Index for all urban consumers. The commissioner
16 shall publish the adjusted maximum benefit annually no later
17 than April 1 of each calendar year, which shall apply during the
18 following calendar year to health insurance policies subject to
19 this section. Payments made by an insurer on behalf of a
20 covered individual for any care, treatment, intervention, or
21 service other than behavioral health treatment, shall not be



1 applied toward any maximum benefit established under this
2 subsection.

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

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

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

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

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



1 (i) As of January 1, 2016, to the extent that this section
2 requires benefits that exceed the essential health benefits
3 specified under section 1302(b) of the Patient Protection and
4 Affordable Care Act of 2010 (P.L. 111-148), the specific
5 benefits that exceed the specified essential health benefits
6 shall not be required of a qualified health plan when the plan
7 is offered in this State through the Hawaii health insurance
8 exchange by a health carrier. Nothing in this subsection shall
9 nullify the application of this section to plans offered outside
10 the exchange.

11 (j) If an individual has been diagnosed as having a
12 pervasive developmental disorder or autism spectrum disorder
13 meeting the diagnostic criteria described in the most recent
14 edition of the Diagnostic and Statistical Manual of Mental
15 Disorders available at the time of diagnosis, then that
16 individual shall not be required to undergo repeat evaluation
17 upon publication of the subsequent edition of the Diagnostic and
18 Statistical Manual of Mental Disorders in order to remain
19 eligible for coverage under this section.

20 (k) As used in this section, unless the context clearly
21 requires otherwise:



1 "Applied behavior analysis" means the design,
2 implementation, and evaluation of environmental modifications,
3 using behavioral stimuli and consequences, to produce socially
4 significant improvement in human behavior, including the use of
5 direct observation, measurement, and functional analysis of the
6 relations between environment and behavior.

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

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

12 "Behavioral health treatment" means counseling and
13 treatment programs, including applied behavior analysis, that
14 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 "Health insurance policy" means any group health, sickness,
5 or accident policy or subscriber contract or certificate issued
6 by an insurance entity subject to this section.

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

11 "Psychiatric care" means direct or consultative services
12 provided by a licensed psychiatrist.

13 "Psychological care" means direct or consultative services
14 provided by a licensed psychologist.

15 "Therapeutic care" means services provided by licensed
16 speech pathologists, registered occupational therapists, or
17 licensed physical therapists.

18 "Treatment for autism spectrum disorders" includes the
19 following care prescribed, provided, or ordered for an
20 individual diagnosed with an autism spectrum disorder by a
21 licensed physician, psychiatrist, psychologist, or registered



1 nurse practitioner if the care is determined to be medically
2 necessary:

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

8 SECTION 4. Chapter 432, Hawaii Revised Statutes, is
9 amended by adding a new section to article I to be appropriately
10 designated and to read as follows:

11 **"§432:1- Autism spectrum disorders benefits and**
12 **coverage; notice; definitions.** (a) Any other law to the
13 contrary notwithstanding, each individual and group hospital or
14 medical service plan, policy, contract, or agreement issued or
15 renewed in this State after December 31, 2013, shall provide to
16 the member and individuals under twenty-six years of age covered
17 under the service plan, policy, contract, or agreement, coverage
18 for the diagnosis and treatment of autism spectrum disorders.

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



1 and shall be transmitted to members within calendar year 2014
2 when annual information is made available to members or in any
3 other mailing to members, but in no case later than December 31,
4 2014.

5 (c) Coverage for behavioral health treatment provided
6 under this section shall be subject to a maximum benefit of
7 \$50,000 per year but shall not be subject to any limits on the
8 number of visits to an autism service provider. After December
9 31, 2016, the insurance commissioner, on an annual basis, shall
10 adjust the maximum benefit for inflation, using the medical care
11 component of the United States Department of Labor Consumer
12 Price Index for all urban consumers. The commissioner shall
13 publish the adjusted maximum benefit annually no later than
14 April 1 of each calendar year, which shall apply during the
15 following calendar year to health insurance policies subject to
16 this section. Payments made by a mutual benefit society on
17 behalf of a covered individual for any care, treatment,
18 intervention, service, or item, the provision of which was for
19 the treatment of a health condition unrelated to the covered
20 individual's autism spectrum disorder, shall not be applied
21 toward any maximum benefit established under this subsection.



1 (d) Coverage under this section shall be subject to
2 copayment, deductible, and coinsurance provisions of a health
3 insurance policy that are no less favorable than the copayment,
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) If an individual has been diagnosed as having a
10 pervasive developmental disorder or autism spectrum disorder
11 meeting the diagnostic criteria described in the most recent
12 edition of the Diagnostic and Statistical Manual of Mental
13 Disorders available at the time of diagnosis, then that
14 individual shall not be required to undergo repeat evaluation
15 upon publication of the subsequent edition of the Diagnostic and
16 Statistical Manual of Mental Disorders in order to remain
17 eligible for coverage under this section.

18 (g) 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 relations between environment and behavior.

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

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

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

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 "Health insurance policy" means any group health, sickness,
21 or accident policy or subscriber contract or certificate issued
22 by a mutual benefit society subject to this section.



1 "Pharmacy care" means medications prescribed by a licensed
2 physician or registered nurse practitioner and any health-
3 related services that are deemed medically necessary to
4 determine the need or 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, or
11 licensed physical therapists.

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

18 (1) Behavioral health treatment;

19 (2) Pharmacy care;

20 (3) Psychiatric care;

21 (4) Psychological care; and

22 (5) Therapeutic care."



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

3 "**§432D-23 Required provisions and benefits.**

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

12 SECTION 6. The coverage and benefit to be provided by a
13 health maintenance organization under section 5 of this Act
14 shall begin for all policies, contracts, plans, or agreements
15 issued in this State by a health maintenance organization after
16 December 31, 2013.

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

19 SECTION 8. This Act shall take effect on July 1, 2112.



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 December 31, 2013. Effective July 1, 2012. (HB721 HD1)

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

