
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 assist persons
2 who have been diagnosed with autism or fetal alcohol spectrum
3 disorder to participate in their communities by making medicaid
4 home and community-based services and other medicaid services
5 more accessible.

6 SECTION 2. This Act shall be known and may be cited as
7 "Ann and Kelii's Law".

8 SECTION 3. The legislature finds that persons who have
9 been diagnosed with autism or fetal alcohol spectrum disorder in
10 Hawaii face difficult and profound challenges and a present
11 system of care that can be complicated to navigate. Other
12 states, such as Minnesota and Virginia, have made dedicated
13 efforts to make the coverage of medicaid services accessible to
14 persons with autism or fetal alcohol spectrum disorder. The
15 legislature finds that Hawaii needs to make a similar effort to
16 minimize the burdens that persons with autism or fetal alcohol
17 spectrum disorder experience in the navigation, access, and
18 coverage of medicaid services.



1 SECTION 4. (a) There is established jointly within the
2 behavioral health services administration of the department of
3 health and the med-QUEST division of the department of human
4 services a task force to review policy issues and opportunities
5 relating to the navigation, access, and coverage of medicaid
6 services by persons with autism or fetal alcohol spectrum
7 disorder. The members of this task force shall consist of:

- 8 (1) A representative from the department of health's
9 behavioral health services administration;
- 10 (2) A representative from the department of health's
11 developmental disabilities division;
- 12 (3) A representative from the department of human
13 services;
- 14 (4) A representative from the department of human
15 services' med-QUEST division;
- 16 (5) A representative from the department of health's state
17 council on developmental disabilities;
- 18 (6) At least one representative from a med-QUEST health
19 plan;
- 20 (7) A member to be selected by the chair of the house
21 committee on human services and homelessness;



- 1 (8) A member to be selected by the chair of the senate
- 2 committee on human services;
- 3 (9) A member to be selected by the chair of the house
- 4 committee on health;
- 5 (10) A member to be selected by the chair of the senate
- 6 committee on commerce, consumer protection, and
- 7 health;
- 8 (11) At least one member of a developmental or intellectual
- 9 disability advocacy group;
- 10 (12) Two parent-advocates to be selected by the speaker of
- 11 the house of representatives;
- 12 (13) Two parent-advocates to be selected by the president
- 13 of the senate; and
- 14 (14) Any additional representatives from state agencies,
- 15 stakeholders, advocates, parent-advocates, or other
- 16 individuals as needed.
- 17 (b) The task force shall conduct a study and submit a
- 18 report of its findings and recommendations to the legislature no
- 19 later than twenty days prior to the convening of the regular
- 20 session of 2020. The study shall include:



1 (1) Identification of all populations and sub-populations
2 with autism or fetal alcohol spectrum disorder that
3 currently, or may in the future, experience burdens in
4 the navigation, access, and coverage of medicaid
5 services;

6 (2) Recommendations for potential changes to medicaid
7 policies and rules that may increase access to home
8 and community-based services and other medicaid
9 services by improving navigation, existing service
10 delivery, coverage, and access; and

11 (3) Recommendations for potential legislation, if
12 necessary.

13 (c) The task force shall also conduct an analysis and make
14 a recommendation on whether a waiver, a waiver amendment, or any
15 other necessary policy approval from the Centers for Medicare
16 and Medicaid Services may be necessary to ensure the following
17 services are accessible to persons with autism or fetal alcohol
18 spectrum disorder:

19 (1) Assistive technology;

20 (2) Career planning, including vocational assessment and
21 job placement services;



- 1 (3) Community transition services;
- 2 (4) Day habilitation;
- 3 (5) Family support;
- 4 (6) Home modifications;
- 5 (7) Nutritional consultation;
- 6 (8) Residential habilitation;
- 7 (9) Respite care;
- 8 (10) Specialized skill development, including behavioral
- 9 specialist, community support, and systematic skill
- 10 building services;
- 11 (11) Supported employment, including extended employment
- 12 supports and intensive job coaching;
- 13 (12) Temporary supplemental services;
- 14 (13) Therapeutic care;
- 15 (14) Transitional work services;
- 16 (15) Vehicle modifications; and
- 17 (16) Supportive housing.
- 18 (d) Notwithstanding any other law to the contrary, any
- 19 waiver, waiver amendment, or any other necessary policy approval
- 20 from the Centers for Medicare and Medicaid Services recommended
- 21 by the task force pursuant to this section shall comply with the



1 applicable federal requirements related to utilization,
2 coverage, and reimbursement for services provided to persons who
3 have been diagnosed with autism or fetal alcohol spectrum
4 disorder, including any federally mandated level of care or
5 needs-based criteria requirements.

6 (e) The members of the task force shall serve without
7 compensation, but shall be reimbursed for necessary expenses,
8 including travel expenses, incurred for service on the task
9 force. No member of the task force shall be made subject to
10 section 84-17, Hawaii Revised Statutes, solely because of that
11 member's participation on the task force.

12 (f) The task force shall convene no later than thirty days
13 after the effective date of this Act.

14 (g) The task force shall serve until it has accomplished
15 the objectives of this Act or twenty days prior to the convening
16 of the regular session of 2020, whichever occurs first.

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

19 "Autism" means autism spectrum disorder, which is a
20 neurodevelopmental disorder, as defined by the most recent



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

3 "Therapeutic care" means services provided by licensed
4 speech pathologists, licensed occupational therapists, licensed
5 social workers, licensed clinical social workers, or licensed
6 physical therapists.

7 SECTION 5. (a) The department of human services shall
8 seek a waiver, a waiver amendment, or any other necessary policy
9 approval from the Centers for Medicare and Medicaid Services
10 that may be necessary to provide home and community-based
11 services or other medicaid services for medicaid-eligible
12 individuals who have been diagnosed with autism or fetal alcohol
13 spectrum disorder, if recommended by the task force pursuant to
14 section 4(c).

15 (b) If the task force recommends a waiver, waiver
16 amendment, or any other necessary policy approval that requires
17 additional medicaid expenditures to implement, then an
18 appropriation shall be sought from the legislature that is
19 sufficient to cover the state portion of increased medicaid
20 expenditures arising from the waiver, waiver amendment, or any
21 other necessary policy approval. Any waiver, waiver amendment,



1 or other necessary policy approval shall not be implemented
2 without an appropriation.

3 SECTION 6. The provision of home and community-based
4 services and other medicaid services for individuals diagnosed
5 with autism or fetal alcohol spectrum disorder as required by
6 this Act shall apply to all plans issued under medicaid managed
7 care and fee-for-service programs in the State.

8 SECTION 7. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 8. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid by state or federal law, the invalidity does not affect
14 other provisions or applications of the Act that can be given
15 effect without the invalid provision or application, and to this
16 end the provisions of this Act are severable.

17 SECTION 9. This Act shall take effect on July 1, 2019;
18 provided that section 6 shall take effect upon approval by the
19 Centers for Medicare and Medicaid Services of any policy change
20 submitted pursuant to section 5 of this Act; provided further
21 that the legislature shall appropriate any necessary state



1 dollars required to fund the policy changes pursuant to
2 section 5.



Report Title:

Autism; Home and Community-based Services; Medicaid; Ann and Kelii's Law; Fetal Alcohol Spectrum Disorder; Task Force

Description:

Establishes a task force to review policy issues and opportunities relating to the navigation, access, and coverage of medicaid services by individuals with autism or fetal alcohol spectrum disorder and make a recommendation on whether a waiver or other approval from the Centers for Medicare and Medicaid Services is necessary to ensure accessibility of certain services for individuals with autism or fetal alcohol spectrum disorder. (CD1)

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