

JAN 20 2023

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



1 spectrum disorder experience in the navigation, access, and
2 coverage of medicaid services.

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

- 10 (1) A representative from the department of health's
11 behavioral health services administration;
- 12 (2) A representative from the department of health's
13 developmental disabilities division;
- 14 (3) A representative from the department of human
15 services;
- 16 (4) A representative from the department of human
17 services' med-QUEST division;
- 18 (5) A representative from the department of health's state
19 council on developmental disabilities;
- 20 (6) At least one representative from a med-QUEST health
21 plan;



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- 1 (7) A member to be selected by the chair of the house
2 standing committee with the primary purview over human
3 services;
- 4 (8) A member to be selected by the chair of the senate
5 standing committee with the primary purview over human
6 services;
- 7 (9) A member to be selected by the chair of the house
8 standing committee with the primary purview over
9 health and homelessness;
- 10 (10) A member to be selected by the chair of the senate
11 standing committee with the primary purview over
12 health and human services;
- 13 (11) At least one member of a developmental or intellectual
14 disability advocacy group;
- 15 (12) Two parent-advocates to be selected by the speaker of
16 the house of representatives;
- 17 (13) Two parent-advocates to be selected by the president
18 of the senate; and
- 19 (14) Any additional representatives from state agencies,
20 stakeholders, advocates, parent-advocates, or other



1 individuals, as deemed necessary by the other members
2 of the task force.

3 (b) The task force shall conduct a study and submit a
4 report of its findings and recommendations to the legislature no
5 later than twenty days prior to the convening of the regular
6 session of 2024. The study shall include:

7 (1) Identification of all populations and sub-populations
8 with autism or fetal alcohol spectrum disorder that
9 currently, or may in the future, experience burdens in
10 the navigation, access, and coverage of medicaid
11 services;

12 (2) Recommendations for potential changes to medicaid
13 policies and rules that may increase access to home
14 and community-based services and other medicaid
15 services by improving navigation, existing service
16 delivery, coverage, and access;

17 (3) A screening tool for autism or fetal alcohol spectrum
18 disorder, using the guidelines developed for the
19 Canada Fetal Alcohol Spectrum Disorder Research
20 Network titled, *Fetal alcohol spectrum disorder: a*
21 *guideline for diagnosis across the lifespan* (February



- 1 2016), as published in the Canadian Medical
2 Association Journal;
- 3 (4) Recommendations for ways to improve support services
4 as part of the medicaid state plan for persons who
5 have been diagnosed with autism or fetal alcohol
6 spectrum disorder; and
- 7 (5) Recommendations for potential legislation, if
8 necessary.
- 9 (c) The task force shall also conduct an analysis and make
10 a recommendation on whether a waiver, a waiver amendment, or any
11 other necessary policy approval from the Centers for Medicare
12 and Medicaid Services may be necessary to ensure the following
13 services are accessible to persons with autism or fetal alcohol
14 spectrum disorder:
- 15 (1) Assistive technology;
- 16 (2) Career planning, including vocational assessment and
17 job placement services;
- 18 (3) Community transition services;
- 19 (4) Day habilitation;
- 20 (5) Family support;
- 21 (6) Home modifications;



- 1 (7) Nutritional consultation;
- 2 (8) Residential habilitation;
- 3 (9) Respite care;
- 4 (10) Specialized skill development, including behavioral
- 5 specialist, community support, and systematic skill
- 6 building services;
- 7 (11) Supported employment, including extended employment
- 8 supports and intensive job coaching;
- 9 (12) Temporary supplemental services;
- 10 (13) Therapeutic care;
- 11 (14) Transitional work services;
- 12 (15) Vehicle modifications; and
- 13 (16) Supportive housing.
- 14 (d) Notwithstanding any other law to the contrary, any
- 15 waiver, waiver amendment, or any other necessary policy approval
- 16 from the Centers for Medicare and Medicaid Services recommended
- 17 by the task force pursuant to this section shall comply with the
- 18 applicable federal requirements related to utilization,
- 19 coverage, and reimbursement for services provided to persons who
- 20 have been diagnosed with autism or fetal alcohol spectrum



1 disorder, including any federally mandated level of care or
2 needs-based criteria requirements.

3 (e) The members of the task force shall serve without
4 compensation, but shall be reimbursed for necessary expenses,
5 including travel expenses, incurred for service on the task
6 force.

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

9 (g) The task force shall serve until it has accomplished
10 the objectives of this Act or twenty days prior to the convening
11 of the regular session of 2024, whichever occurs first.

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

14 "Autism" means autism spectrum disorder, which is a
15 neurodevelopmental disorder, as defined by the most recent
16 edition of the Diagnostic and Statistical Manual of Mental
17 Disorders.

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



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

9 (b) If the task force recommends a waiver, waiver
10 amendment, or any other necessary policy approval that requires
11 additional medicaid expenditures to implement, then an
12 appropriation shall be sought from the legislature that is
13 sufficient to cover the state portion of increased medicaid
14 expenditures arising from the waiver, waiver amendment, or any
15 other necessary policy approval. Any waiver, waiver amendment,
16 or other necessary policy approval shall not be implemented
17 without an appropriation.

18 SECTION 6. The provision of home and community-based
19 services and other medicaid services for individuals diagnosed
20 with autism or fetal alcohol spectrum disorder as required by



1 this Act shall apply to all plans issued under medicaid managed
2 care and fee-for-service programs in the State.

3 SECTION 7. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

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

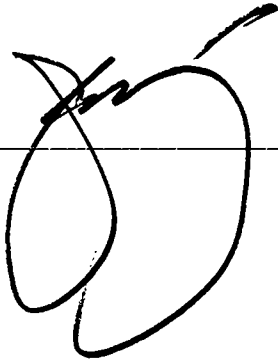
12 SECTION 9. This Act shall take effect on July 1, 2023;
13 provided that section 6 shall take effect upon approval by the
14 Centers for Medicare and Medicaid Services of any waiver, waiver
15 amendment, or necessary policy change submitted pursuant to
16 section 5 of this Act; provided further that the legislature
17 shall appropriate any necessary state dollars required to fund
18 the waiver, waiver amendment, or policy change pursuant to
19 section 5.

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INTRODUCED BY:

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S.B. NO. 713

Report Title:

Autism; Home and Community-based Services; Medicaid; Ann and Kellii'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.

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