

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

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

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

The legislature finds that the state auditor's 2014 sunrise study on the advisability of mandating insurance coverage for orofacial anomalies, Report No. 14-08, found that coverage should be required as it would provide a substantial social benefit in exchange for a minimal cost to private insurers. Coverage would mitigate a significant financial hardship for working families whose private medical insurance does not cover medically necessary orthodontic services for their children born with orofacial anomalies. The legislature further finds that overall treatment costs are not likely to increase due to the limited usage of those services by such a small portion of the general population.

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

SECTION 2. This Act shall be known and may be cited as "Anya's Law".

SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated and to read as follows:

"§431:10A- Orthodontic services for orofacial anomalies; benefits and coverage; notice. (a) Each individual and group accident and health or sickness insurance policy, contract, plan, or agreement issued or renewed in this State after December 31, 2015, shall provide to the policyholder and individuals under twenty-six years of age covered under the policy, contract, plan, or agreement, coverage of medically necessary orthodontic services for the treatment of orofacial anomalies resulting from birth defects or birth defect syndromes. Coverage required by this section shall be paid for by medical insurance.

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

(c) Orthodontic services for treatment of orofacial anomalies provided under this section shall be subject to a maximum benefit of \$5,500 per treatment phase, but shall not be subject to limits on the number of visits to an orthodontist. After December 31, 2016, the insurance commissioner, on an annual basis, shall adjust the maximum benefit for inflation using the medical care component of the United States Department of Labor Consumer Price Index for all urban consumers. The commissioner shall publish the adjusted maximum benefit an-

nually no later than April 1 of each calendar year, which shall apply during the following calendar year to accident and health or sickness insurance policies, contracts, plans, or agreements subject to this section. Payments made by an insurer on behalf of a covered individual for any care, treatment, intervention, or service other than orthodontic services, shall not be applied toward any maximum benefit established under this subsection.

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

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

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

(g) This section shall not apply to limited benefit health insurance as provided pursuant to section 431:10A-102.5.

(h) As used in this section, unless the context clearly requires otherwise: "Orofacial anomalies" means cleft lip or cleft palate and other birth defects of the mouth and face affecting functions such as eating, chewing, speech, and respiration.

"Orthodontic services" mean direct or consultative services provided by a licensed dentist with a certification in orthodontics by the American Board of Orthodontics.

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

SECTION 4. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

"§432:1- Orthodontic services for orofacial anomalies, benefits and coverage; notice. (a) Notwithstanding any law to the contrary, each individual and group hospital or medical service plan contract issued or renewed in this State after December 31, 2015, shall provide to the member and individuals under twenty-six years of age covered under the plan contract coverage for medically necessary orthodontic services for the treatment of orofacial anomalies resulting from birth defects or birth defect syndromes. Coverage required by this section shall be paid for by medical insurance.

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

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

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

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

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

(f) This section shall not apply to limited benefit health insurance as provided pursuant to section 431:10A-102.5.

(g) As used in this section, unless the context clearly requires otherwise: "Orofacial anomalies" means cleft lip or cleft palate and other birth defects of the mouth and face affecting functions such as eating, chewing, speech, and respiration.

"Orthodontic services" means direct or consultative services provided by a licensed dentist with a certification in orthodontics by the American Board of Orthodontics.

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

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

"§432D-23 Required provisions and benefits. Notwithstanding any provision of law to the contrary, each policy, contract, plan, or agreement issued in the State after January 1, 1995, by health maintenance organizations pursuant to this chapter, shall include benefits provided in sections 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-122, and 431:10A-116.2;~~] and 431:10A- and chapter 431M."

SECTION 6. The coverage and benefits to be provided by a health maintenance organization under section 5 of this Act shall begin for all policies, contracts, plans, or agreements issued or renewed in this State by a health maintenance organization after December 31, 2015.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 2015.

(Approved July 2, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.