

# Department of Labor & Industrial Relations



HOUSE COMMITTEE ON HEALTH & HOMELESSNESS  
INFORMATIONAL BRIEFING  
MARCH 6, 2024

# Prepaid Health Care Act (Prepaid)

Chapter 393, Hawaii Revised Statutes, enacted 1974

## Main benefits of Prepaid:

- Employers mandated to provide healthcare coverage to Hawaii employees who work 20 or more hours a week for 4 consecutive weeks and earns a monthly wage at least 86.67 times the state's minimum wage
- Provides low healthcare deductibles
- Caps Out-of-Pocket expenses
- Cost-sharing provisions
- Limits employee premium contributions to 1.5% of the employee's wages

# Prepaid Health Care Advisory Council (PHCAC)

PHCAC advises the Director of DLIR whether benefits provided by a prepaid health care plan comply with statutory standards.

- 7(a) plans offer benefits equal to or better than those of the state's prevalent plan (the plan with the largest number of subscribers).
- 7(b) plans may have more limited benefits and require a greater employer and employee contributions for dependent coverage.

Plans must be approved before employer can offer the coverage to employees or implement any plan changes

# PHCAC Review

Deductibles - \$350 maximum (previous \$300 2004- 2016)

Current Prevalent Plan deductibles

- \$0 for Preferred Provider Organization plans
- \$100 Health Maintenance Organizations

Out-of-pocket maximums

Current Prevalent Plan out-of-pocket maximums (HMSA & Kaiser)

- \$2,500 individual; \$7,500 family

Family out-of-pocket max capped at 2-3x's the individual out-of-pocket max

Cost-sharing equivalence

# PHCAC Review (Continued)

## Health Benefits

- Ambulatory (outpatient care)
- Emergency Care
- Mental Health Services
- Hospitalization Services
- Preventive & Wellness Services
- Laboratory Services
- Maternity & Newborn Care

Types and levels of benefits, as well as exclusions are reviewed

Plans may qualify for approval if it provides benefits equal to or '*reasonably substitutable for*' the benefits provided by the prevalent plan.



# Employee Retirement Income Security Act (ERISA)

ERISA is a comprehensive federal law regulating the **administration of employee benefits** and pension plans and establishes standards for plans, which includes health insurance plans.

ERISA enacted 1974, *after* Hawaii's Prepaid Law

Congress *exempted* Hawaii from ERISA law contingent upon no substantive changes to Hawaii's Prepaid Law or we are in jeopardy of losing our exemption

Exemption prevents us from 'imposing' new benefits on employers

# Affordable Care Act (ACA)

ACA passed federally in 2010.

## 10 Essential Health Benefits

- Ambulatory (outpatient care)
- Emergency Care
- Mental Health Services
- Hospitalization Services
- Preventive & Wellness Services
- Laboratory Services
- Maternity & Newborn Care
- **Prescription drugs**
- **Habilitative Services**
- **Pediatric vision/dental**

## ACA and Prepaid

***Hawaii's Prepaid Law provides a richer benefit*** to Hawaii employees than would be required under the ACA with more modest employee contributions, small employers and their employees are also protected by the state's rating approval process and the Prepaid requirements that carriers cannot refuse to insure an employer group.



## Prepaid, ERISA and ACA

The loss of the ERISA exemption would be detrimental to Hawaii's workers

- Employers no longer mandated to provide healthcare coverage to Hawaii eligible workers
- Under ACA, only businesses with more than 50 full time employees must provide healthcare coverage (Prepaid is 1 full time employee)
- Hawaii workers will be required to work longer hours per week to be eligible for healthcare benefits (Prepaid requirement of 20 hours, ACA is 30 hours)
- Prepaid limits employee premium contributions to no more than 1.5% of employee wages. ACA has a higher employee contribution of 9.5%.
- The actuarial value of average Prepaid plans for employee coverage is 90%, the equivalent ACA plan is lowered to 60% - 80%; i.e. employees responsible for a larger percentage of healthcare costs.

# State Innovation Waiver (Waiver) and ACA

June 2016 Hawaii applied to waive certain Affordable Care Act (ACA) provisions related to the ACA Small-Business Health Options Program (SHOP) on the basis of our unique Prepaid Health Care Act

December 2016 – The Department of Health and Human Services and the U.S. Department of Treasury approved Hawaii's application for the Waiver

- ACA SHOP is not required in Hawaii
- ACA SHOP tax credits are replaced by the Hawaii's Prepaid Health Care Premium Supplementation Program

# ACA and Waiver

\$2.7 million in federal grant funds awarded to DLIR

- Started October 2017
- Available for eligible small employers
  - Receive partial reimbursement for health care premiums
  - Waiver extended through 2026

# Prepaid Health Care Act

Hawaii's workforce has enjoyed progressive health coverage policies since 1974

Prepaid provides Hawaii's employees with sound healthcare benefits and financial protection

Forerunner of the ACA

# High Deductible Health Plans (HDHP)

- *HDHP deductibles start at:*
  - *\$1,300 for individual*
  - *\$2,600 for a family*

*Significantly more than the \$100 and \$0 deductibles on the Prepaid Prevalent plans*

Under IRS law, Section 223 (c)(2)(c), an employee needs to satisfy the deductible prior to receiving plan benefits.

- Financial burden for many



# HDHP and Prepaid

- Prepaid requires an employer to offer only one health plan
- DLIR cannot require the employer to offer more than one plan to employees
- Out-of-pocket maximums

	Hawaii's Prevalent Plans	HDHP Average	ACA
Individual	\$ 2,500.00	\$ 7,500.00	\$ 9,400.00
Family	\$ 7,500.00	\$ 15,000.00	\$ 18,900.00

*HDHP out-of-pocket maximums do not comport with the current prevalent plan maximums*

## HDHP and Prepaid

- If HDHP becomes the prevalent plan (most subscribers)
  - Current prevalent plans (HMSA & Kaiser) erode
  - Adverse financial effects on employees who select a non-HDHP
    - Employers are only responsible for the cost of the least expensive plan
    - Cost differential of the higher costing plan is borne by the employee
      - Employee responsible to pay the difference of the cost of the two plans plus the 1.5% (Prepaid employee contribution rate)

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