

---

---

A BILL FOR AN ACT

RELATING TO THE PATIENTS' BILL OF RIGHTS AND RESPONSIBILITIES  
ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

4 "§432E- Unfair or deceptive acts or practices in the  
5 managed care plan business. (a) The following are defined as  
6 unfair or deceptive acts or practices in the managed care plan  
7 business and shall be prohibited:

- 8 (1) Canceling or nonrenewing an enrollment or subscription  
9 in the managed care plan because of the enrollee's or  
10 subscriber's health status.
- 11 (2) Rescinding or modifying an authorization for a  
12 specific type of treatment by a provider after the  
13 provider renders, or begins rendering, the health care  
14 service in good faith and pursuant to the managed care  
15 plan's authorization.
- 16 (3) Changing the premium rates, copayments, coinsurances,  
17 or deductibles of a contract after receipt of payment

1 by the managed care plan of the premium for the first  
2 month of coverage in accordance with the contract  
3 effective date; provided that changes shall be allowed  
4 if authorized or required in the group contract, if  
5 the contract was agreed to under a preliminary  
6 agreement that states that it is subject to the  
7 execution of a definitive agreement, or if the managed  
8 care plan and the contract-holder mutually agree in  
9 writing.

10 (4) Engaging in post-claims underwriting. As used herein,  
11 "post-claims underwriting" means the rescinding,  
12 canceling, or limiting of a managed care plan contract  
13 due to the managed care plan's failure to complete  
14 medical underwriting and resolve all reasonable  
15 questions arising from written information that the  
16 managed care plan requires enrollees or subscribers to  
17 submit before issuing the managed care plan contract.  
18 This paragraph shall not limit a managed care plan's  
19 remedies upon a showing of an enrollee's or  
20 subscriber's wilful misrepresentation.

21 (5) Establishing an eligible charge for a nonparticipating  
22 provider service that is different from the eligible

1 charge paid for the same service rendered by a  
2 participating provider. As used herein, "eligible  
3 charge" means the amount that is payable by the  
4 managed care plan for a treatment, service, or supply,  
5 prior to making deduction for cost-sharing.

6 (b) The commissioner shall by certified mail notify the  
7 managed care plan of each complaint filed with the commissioner  
8 under this section.

9 (c) A managed care plan shall issue a written response with  
10 reasonable promptness, in no case more than fifteen working days,  
11 to any notification or written inquiry made by the commissioner  
12 regarding a complaint. The response shall be more than an  
13 acknowledgment that the commissioner's communication has been  
14 received and shall completely and substantively address the  
15 complaint or concerns stated in the communication.

16 (d) If it is found, after notice and an opportunity to be  
17 heard, that an insurer has violated this section, each instance  
18 of noncompliance may be treated as a separate violation of this  
19 section for the purposes of section 431:2-203.

20 (e) Evidence as to numbers and types of complaints to the  
21 commissioner against a managed care plan and the commissioner's  
22 complaint experience with other managed care plans, shall be

H.B. NO. 3093

1 admissible in an administrative or judicial proceeding brought  
2 under this section."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect upon its approval.

5

6

INTRODUCED BY:

Calvin H. Ay

7

BY REQUEST

JAN 22 2008

**Report Title:**

Patients' Bill of Rights and Responsibilities Act

**Description:**

Amends the Patients' Bill of Rights and Responsibilities Act by prohibiting certain unfair or deceptive business practices by managed care plans, such as disenrolling a person because of a medical condition.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO THE PATIENTS' BILL OF RIGHTS AND RESPONSIBILITIES ACT.

PURPOSE: Amends the Patients' Bill of Rights and Responsibilities Act by prohibiting certain unfair or deceptive business practices by managed care plans.

MEANS: Add a new section to chapter 432E, Hawaii Revised Statutes.

JUSTIFICATION: Protects consumers by establishing prohibited practices for managed care plans. This bill is based partly on the California managed care plan statutes, and accomplishes the following:

- Prohibits disenrollment because of medical condition;
- Prohibits withdrawal of authorization for a procedure by the health plan after the provider has taken action;
- Prohibits contract modifications during the term of the contract, unless such modifications are agreed to in the contract;
- Prohibits post claims underwriting, i.e., ousting an individual from a health plan because the plan discovers a medical condition that they didn't know about at the time of underwriting;
- Provides that eligible charges for nonparticipating providers should be the same as for participating providers. This will give insureds some protection against the insurer setting unreasonably low and arbitrary eligible charges for nonparticipating providers.

Impact on the public: Adds protection for consumers by allowing action against insurers by way of complaint or investigation rather than having external review as the only mechanism for redress. Often consumers cannot obtain legal representation for external review appeals.

Impact on the department and other agencies: Gives the Department greater flexibility in addressing consumer grievances. Allows resolution by administrative action without obtaining participation by a physician and an insurance company representative for a three-member external review panel. No impact on other agencies.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-106

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.