
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§431:2-201.5 Conformity to federal law.** (a) The
4 provisions of Title 42 United States Code section 300gg, et
5 seq., as they relate to group and individual health insurance
6 shall apply to title 24, except:

7 (1) Where state law provides greater health benefits or
8 coverage than Title 42 United States Code section
9 300gg, et seq., state law shall be applicable; and

10 (2) This section shall not apply to or affect life
11 insurance, endowment, or annuity contracts, or any
12 supplemental contract thereto, described in section
13 431:10A-101(4).

14 (b) The following definitions shall be used when applying
15 Title 42 United States Code section 300gg, et seq.:

16 "Employee" means an employee who works on a full-time basis
17 with a normal workweek of twenty hours or more.



1 "Group health issuer" means all persons offering health
2 insurance coverage to any group or association, but shall not
3 include those persons offering benefits exempted from Title I of
4 the Health Insurance Portability and Accountability Act of 1996,
5 P.L. 104-191 under sections 732(c) and 733(c) of Title I of the
6 Employee Retirement Income Security Act of 1974 and sections
7 2747 and 2791(c) of the Public Health Service Act.

8 "Qualifying event" means the date of issuance of a general
9 excise tax license, the loss of a job, a reduction in hours of
10 work, or the exhaustion of the federal Consolidated Omnibus
11 Budget Reconstruction Act continuation coverage that results in
12 a loss of health care coverage.

13 "Self-employed individual" means a person operating the
14 person's own business, whether as a sole proprietorship or in
15 any other legally recognized manner in which a person may
16 operate the person's own business, who has a general excise tax
17 license for that business, and who is licensed by the department
18 of commerce and consumer affairs for that business.

19 "Small employer" means an employer who employs between one
20 and no more than fifty employees.

21 (c) All group health issuers shall offer all small group
22 health plans to all small employers whose employees live, work,



1 or reside in the group health issuer's service areas; provided
2 that ~~[the]~~:

3 (1) The commissioner may exempt a group health issuer if
4 the commissioner determines that the group health
5 issuer does not have the capacity to deliver services
6 adequately to enrollees of additional groups given its
7 obligation to existing employer groups; and ~~[provided~~
8 ~~further that the]~~

9 (2) The commissioner ~~[shall]~~ may exempt from this
10 subsection group health plans offered to small
11 employers that employ only one employee, if the group
12 health issuer offers the small employer groups at
13 least one small group health plan that meets the
14 requirements of chapter 393, and upon the
15 determination by the commissioner that the group
16 health issuer has the capacity to adequately deliver
17 services to enrollees of the additional groups,
18 subject to its obligations to existing employer
19 groups.

20 (d) Subject to subsection (e)(1), beginning September 1,
21 2008, and annually thereafter, all group health issuers shall
22 offer small group health plans to self-employed individuals who



1 live, work, or reside in the group health issuer's service
2 areas; provided that the commissioner may exempt a group health
3 issuer if the commissioner determines that the group health
4 issuer does not have the capacity to deliver services adequately
5 to enrollees of additional groups given its obligation to
6 existing employer groups.

7 (e) Group health issuers may limit periods of enrollment
8 for self-employed individuals to a minimum of thirty calendar
9 days; provided that:

10 (1) Self-employed individuals who experience a qualifying
11 event shall enroll with a group health issuer within
12 thirty days of the qualifying event; and

13 (2) Group health issuers shall be allowed to impose a one-
14 year waiting period against self-employed individuals
15 who terminate coverage for any reason. If a self-
16 employed individual terminates coverage and a one-year
17 waiting period is imposed against the individual, a
18 group health issuer need not reenroll the individual
19 until the period of enrollment following the one-year
20 waiting period.

21 ~~(d)~~ (f) A group health issuer shall be prohibited from
22 imposing any preexisting condition exclusion.



1 [~~e~~] (g) The commissioner may adopt rules to implement,
2 clarify, or conform title 24 to Title 42 United States Code
3 section 300gg, et seq.

4 [~~f~~] (h) The adoption of the Health Insurance Portability
5 and Accountability Act of 1996, P.L. 104-191, for the purposes
6 of title 24 is not an adoption for any purposes for income taxes
7 under chapter 235.

8 [~~g~~] (i) The State shall have jurisdiction over any
9 matter that Title 42 United States Code section 300gg, et seq.,
10 permits, including jurisdiction over enforcement.

11 [~~h~~] (j) As used in this section, "small group health
12 plans" means the medical plans currently offered, advertised, or
13 marketed by a group health issuer for small employers."

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect on July 1, 2008, and
17 shall be repealed on July 1, 2013.



Report Title:

Group Health Insurers; Small Business

Description:

Requires group health issuers to offer small group health plans to self-employed individuals who are licensed by the department of commerce and consumer affairs and are located in the group issuer's service areas. Authorizes the insurance commissioner to exempt certain group health plans based on specified criteria. Allows limits on timing of enrollment and reenrollment to control adverse selection and plan costs. Repeals on 7/1/13. (SD1)

