
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 **PART I**

2 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
3 amended by adding a new article to be appropriately designated
4 and to read as follows:

5 "ARTICLE

6 **GROUP HEALTH INSURANCE CONTINUATION OF COVERAGE**

7 §431: -101 **Scope and purpose.** (a) This article shall
8 apply to all persons offering coverage for dental services
9 pursuant to chapter 423, insurers governed by chapter 431,
10 mutual benefit societies governed by chapter 432:1, fraternal
11 benefit societies governed by chapter 432:2, and health
12 maintenance organizations governed by chapter 432D.

13 (b) This article shall not apply if continuation of
14 coverage benefits is available to covered persons or qualified
15 beneficiaries pursuant to section 4980B of the Internal Revenue
16 Code, chapter 18 of the Employee Retirement Income Security Act,
17 29 United States Code section 1161 et seq., or chapter 6A of the

1 Public Health Service Act, 42 United States Code section 300bb-1
2 et seq.

3 **§431: -102 Definitions.** As used in this article:

4 "Applicable premium" means the premium charged by a group
5 health insurer for a period of coverage for persons covered
6 under a group health plan, regardless of who pays the premium.

7 "Beneficiary" means any person who is insured under the
8 group health plan by virtue of relationship to covered person.

9 "Continuation of coverage" means coverage under a group
10 health plan that meets the requirements of this article.

11 "Covered person" means an employee who is or was provided
12 coverage under a group health plan.

13 "Group health insurer" means all persons offering a dental
14 plan or group health plan to any employer pursuant to title 24,
15 but shall not include those persons offering benefits exempted
16 from Title I of the Health Insurance Portability and
17 Accountability Act of 1996, Public Law 104-191, under sections
18 732(c) and 733(c) of the Employee Retirement Income Security Act
19 of 1974, 42 United States Code sections 1191a(c) and 1191b(c),
20 and section 2791(c) of the Public Health Service Act, 42 United
21 States Code section 300gg-91.

1 "Group health plan" means a plan maintained by an employer
2 to provide health care to individuals and their families who
3 have an employment related connection to the employer.

4 "Qualified beneficiary" means any person who, on the day
5 before a qualifying event, is insured under a group health plan
6 by virtue of relationship to a covered person.

7 "Qualifying event" means the termination or reduction of
8 hours of the covered person's employment resulting in the loss
9 of coverage under a prepaid health care plan pursuant to chapter
10 393.

11 **§431: -103 Continuation of coverage under group health**
12 **plans.** (a) A group health plan shall provide that each covered
13 person or qualified beneficiary who would lose coverage under
14 the group health plan because of a qualifying event is entitled
15 to elect continuation of coverage pursuant to this article
16 without providing evidence of insurability. A covered person or
17 qualified beneficiary who elects continuation of coverage is
18 entitled to all the benefits and is subject to all the terms and
19 conditions applicable to the group health plan.

20 (b) Continuation of coverage under the group health plan
21 shall, at minimum, extend from the date of the qualifying event
22 to the earliest of:

- 1 (1) Twenty-four months after the termination of a covered
2 person or qualified beneficiary's benefits under a
3 group health plan because of a qualifying event;
- 4 (2) The date of termination of coverage under a group
5 health plan because of a failure to make timely
6 payment of the applicable premium;
- 7 (3) The date a covered person or qualified beneficiary
8 becomes covered under any other group health plan, if
9 the covered person or qualified beneficiary will not
10 be subject to any exclusion, waiting period, or
11 limitation because of a preexisting condition;
- 12 (4) The date a covered person or qualified beneficiary is
13 entitled to benefits under either part A or part B of
14 Title XVIII of the Social Security Act, 42 United
15 States Code section 1395c to 1395w-4; or
- 16 (5) The date on which an employer terminates coverage
17 under a group health plan for all employees or
18 members; provided that if the employer replaces the
19 terminated group health plan by coverage under another
20 group health plan, the covered person or qualified
21 beneficiary shall have the right to become covered
22 under the new group health plan for the balance of the

1 period that the person would have remained covered
2 under the terminated group health plan.

3 (c) A covered person or qualified beneficiary shall give
4 written notice to the group health insurer not later than thirty
5 days after a qualifying event. The written notice shall
6 identify the employer or specify the group health plan number,
7 shall provide the name and address of the covered person or
8 qualified beneficiary, and shall provide other information
9 required under the terms of the group health plan or by the
10 commissioner. The written notice shall inform the group health
11 insurer of the occurrence of a qualifying event; provided that
12 in cases where a covered employee has been involuntarily
13 discharged, the nature of the discharge need not be disclosed.

14 (d) Within fourteen days after the receipt of written
15 notice under this section, the group health insurer shall send
16 each covered person or qualified beneficiary an election and
17 premium notice form, which shall provide for the covered person
18 or qualified beneficiary's election or nonelection of
19 continuation of coverage and the applicable premium amount.

20 (e) A covered person or qualified beneficiary who elects
21 continuation of coverage shall pay the initial premium and elect
22 continuation of coverage in writing to the group health insurer

1 issuing the group health plan within thirty days after receiving
2 notice from the group health insurer. The group health insurer
3 or its designee shall process all elections promptly and provide
4 coverage retroactively to the date coverage would otherwise have
5 terminated. The premium due shall be for the period beginning
6 on the date coverage would have otherwise terminated due to the
7 qualifying event. The first premium payment shall include
8 coverage paid to the end of the month in which the first payment
9 is made. After election, the group health insurer shall bill
10 the covered person or qualified beneficiary for premiums once
11 each month, with a due date on the first of the month of
12 coverage and allowing a thirty day grace period for payment.

13 (f) Except as otherwise specified in an election, any
14 election by a covered person or qualified beneficiary shall be
15 deemed to include an election of continuation of coverage on
16 behalf of any other covered person or qualified beneficiary
17 residing in the same household who would lose coverage under the
18 group health plan by reason of a qualifying event.

19 (g) The premium paid for continuation of coverage shall
20 not exceed one hundred fifty per cent of the applicable premium.

21 (h) If a group health insurer fails to comply with the
22 notice requirements of this section and that noncompliance

1 results in the failure of a covered person or qualified
2 beneficiary to elect continuation of coverage under the group
3 health plan, the covered person or qualified beneficiary shall
4 be deemed to have timely elected continuation of coverage within
5 the election period and shall be covered under the group health
6 plan at the expense of the noncompliant group health insurer.
7 The liability exposure of a noncompliant group health insurer
8 under this section shall be limited to the period from the
9 effective date of coverage pursuant to an affirmative election
10 through the date that the covered person or qualified
11 beneficiary receives actual notice. This subsection shall not
12 apply where the failure of the group health insurer to comply
13 with notice requirements was due to noncompliance with
14 requirements for notice of a qualifying event by the covered
15 person or qualified beneficiary.

16 (i) If a covered person or qualified beneficiary who is a
17 member of the military reserve or National Guard has elected to
18 continue coverage and is thereafter called to active duty and
19 the coverage under the group plan is terminated due to
20 enrollment in a health care program provided by the United
21 States Department of Defense, the twenty-four month period for
22 which the covered person or qualified beneficiary would

1 otherwise be entitled to continue coverage is tolled during the
2 time that the person is covered under the United States
3 Department of Defense program. Within thirty days after federal
4 coverage terminates, the covered person or qualified beneficiary
5 may elect to continue coverage under the group health plan,
6 retroactively to the date coverage terminated under the United
7 States Department of Defense program, for the remainder of the
8 twenty-four month period.

9 (j) A covered person or qualified beneficiary who is
10 disenrolled from continuation of coverage under this article for
11 any reason, including but not limited to voluntary disenrollment
12 or failure to timely submit premium payments, will be ineligible
13 to re-enroll for continuation of coverage under the group health
14 plan.

15 **§431: -104 Notice required.** (a) At the time of the
16 first renewal of the policy after January 1, 2010, a group
17 health insurer shall include notification of the right to
18 continuation of coverage pursuant to this article and
19 notification of the procedures for requesting continuation of
20 coverage in each policy, contract, certificate of coverage, and
21 plan guide to benefits. The notification shall contain all
22 information necessary for a covered person or qualified

1 beneficiary to comply with the notice requirements of this
2 article. Forms for use by the covered person or qualified
3 beneficiary shall be made available by the group health insurer.
4 The notice required by this subsection shall also be posted on
5 the group health insurer's corporate website in a manner that
6 allows the group health insurer's members to view that
7 information.

8 (b) The commissioner shall display on the commissioner's
9 official website notification of the right to continuation of
10 coverage pursuant to this article and notification of the
11 procedures for requesting continuation of coverage. The notice
12 required by this article shall be continuously available to the
13 general public through the commissioner's website."

14 SECTION 2. Section 432:1-102, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Article 2, article 2D, article 13, [~~and~~] article 14G,
17 and article _____ of chapter 431, and the powers there granted to
18 the commissioner, shall apply to managed care plans, health
19 maintenance organizations, or medical indemnity or hospital
20 service associations, which are owned or controlled by mutual
21 benefit societies, so long as the application in any particular

1 case is in compliance with and is not preempted by applicable
2 federal statutes and regulations."

3 SECTION 3. Section 432D-19, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) Article 2, article 13, [~~and~~] article 14G, and
6 article of chapter 431, and the power there granted to the
7 commissioner, shall apply to health maintenance organizations,
8 so long as the application in any particular case is in
9 compliance with and is not preempted by applicable federal
10 statutes and regulations."

11 **PART II**

12 SECTION 4. Chapter 431, Hawaii Revised Statutes, is
13 amended by adding a new section to article 10A to be
14 appropriately designated and to read as follows:

15 "§431:10A- Group health care coverage; part-time
16 employees. (a) An insurer that provides health care coverage
17 in this State to the regular employees of any group or
18 association shall offer the same coverage to part-time employees
19 of that group or association. If the group or association
20 offers family coverage as defined in section 431:10A-103 to its
21 regular employees, it shall offer the same family coverage to
22 part-time employees. The group or association shall not be

1 required by this section to pay any part of the premium for
2 coverage of part-time employees. The group or association shall
3 be responsible for any administrative duties required for the
4 enrollment of part-time employees such as monitoring
5 eligibility, collecting premiums, and transmitting payment to
6 the insurer.

7 (b) A group health insurer may limit periods of enrollment
8 for part-time employees to a minimum of thirty calendar days;
9 provided that:

10 (1) Part-time employees who experience a qualifying event
11 shall enroll with a group health insurer within thirty
12 days of the qualifying event; and

13 (2) Group health insurers shall be allowed to impose a
14 one-year waiting period against part-time employees
15 who terminate coverage for any reason. If a part-time
16 employee terminates coverage and a one-year waiting
17 period is imposed against the employee, a group health
18 insurer need not reenroll the employee until the
19 period of enrollment following the one-year waiting
20 period.

21 For the purposes of this section:

1 "Group or association" shall not include any state or
2 political subdivision of any state, or instrumentality thereof.

3 "Health care" includes hospitalization, surgery, medical or
4 nursing care, drugs, or restorative appliances.

5 "Part-time employee" means a person employed by a single
6 employer for at least fifteen, but less than twenty hours per
7 week and for a continuous period of at least eighteen months.

8 "Qualifying event" means the date on which the part-time
9 employee has been continuously employed by a single employer for
10 a period of eighteen months or the date on which a dependent of
11 the part-time employee becomes eligible for coverage through
12 loss of other health care coverage, marriage, birth, or
13 adoption.

14 "Regular employee" means a person employed by a single
15 employer for at least twenty hours per week."

16 SECTION 5. Chapter 432, Hawaii Revised Statutes, is
17 amended by adding a new section to article 1 to be appropriately
18 designated and to read as follows:

19 "§432:1- Group health care coverage; part-time
20 employees. (a) A mutual benefit society in this State whose
21 hospital and medical service corporation contract provides
22 health care coverage for the regular employees of any group or

1 association shall offer the same coverage to part-time employees
2 of that group or association. If the group or association
3 offers family coverage as defined in section 431:10A-103 to its
4 regular employees, it shall offer the same family coverage to
5 part-time employees. The group or association shall not be
6 required by this section to pay any part of the premium for
7 coverage of part-time employees. The group or association shall
8 be responsible for any administrative duties required for the
9 enrollment of part-time employees such as monitoring
10 eligibility, collecting premiums, and transmitting payment to
11 the insurer.

12 (b) A group health insurer may limit periods of enrollment
13 for part-time employees to a minimum of thirty calendar days;
14 provided that:

15 (1) Part-time employees who experience a qualifying event
16 shall enroll with a group health insurer within thirty
17 days of the qualifying event; and

18 (2) Group health insurers shall be allowed to impose a
19 one-year waiting period against part-time employees
20 who terminate coverage for any reason. If a part-time
21 employee terminates coverage and a one-year waiting
22 period is imposed against the employee, a group health

1 insurer need not reenroll the employee until the
2 period of enrollment following the one-year waiting
3 period.

4 For the purposes of this section:

5 "Group or association" shall not include any state or
6 political subdivision of any state, or instrumentality thereof.

7 "Health care" includes hospitalization, surgery, medical or
8 nursing care, drugs, or restorative appliances.

9 "Part-time employee" means a person employed by a single
10 employer for at least fifteen, but less than twenty hours per
11 week and for a continuous period of at least eighteen months.

12 "Qualifying event" means the date on which the part-time
13 employee has been continuously employed by a single employer for
14 a period of eighteen months or the date on which a dependent of
15 the part-time employee becomes eligible for coverage through
16 loss of other health care coverage, marriage, birth, or
17 adoption.

18 "Regular employee" means a person employed by a single
19 employer for at least twenty hours per week."

20 SECTION 6. Chapter 432:2, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:

1 "§432:2- Group health care coverage; part-time
2 employees. (a) A fraternal benefit society in this State whose
3 hospital and medical service corporation contract provides
4 health care coverage for the regular employees of any group or
5 association shall offer the same coverage to part-time employees
6 of that group or association. If the group or association
7 offers family coverage as defined in section 431:10A-103 to its
8 regular employees, it shall offer the same family coverage to
9 part-time employees. The group or association shall not be
10 required by this section to pay any part of the premium for
11 coverage of part-time employees. The group or association shall
12 be responsible for any administrative duties required for the
13 enrollment of part-time employees such as monitoring
14 eligibility, collecting premiums, and transmitting payment to
15 the insurer.

16 (b) A group health insurer may limit periods of enrollment
17 for part-time employees to a minimum of thirty calendar days;
18 provided that:

19 (1) Part-time employees who experience a qualifying event
20 shall enroll with a group health insurer within thirty
21 days of the qualifying event; and

1 (2) Group health insurers shall be allowed to impose a
2 one-year waiting period against part-time employees
3 who terminate coverage for any reason. If a part-time
4 employee terminates coverage and a one-year waiting
5 period is imposed against the employee, a group health
6 insurer need not reenroll the employee until the
7 period of enrollment following the one-year waiting
8 period.

9 For the purposes of this section:

10 "Group or association" shall not include any state or
11 political subdivision of any state, or instrumentality thereof.

12 "Health care" includes hospitalization, surgery, medical or
13 nursing care, drugs, or restorative appliances.

14 "Part-time employee" means a person employed by a single
15 employer for at least fifteen, but less than twenty hours per
16 week and for a continuous period of at least eighteen months.

17 "Qualifying event" means the date on which the part-time
18 employee has been continuously employed by a single employer for
19 a period of eighteen months or the date on which a dependent of
20 the part-time employee becomes eligible for coverage through
21 loss of other health care coverage, marriage, birth, or
22 adoption.

1 "Regular employee" means a person employed by a single
2 employer for at least twenty hours per week."

3 SECTION 7. Chapter 432D, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§432D- Group health care coverage; part-time employees.

7 (a) A health maintenance organization that issues a policy,
8 contract, plan, or agreement in this State that provides health
9 care coverage for the regular employees of any group or
10 association shall offer the same coverage to part-time employees
11 of that group or association. If the group or association
12 offers family coverage as defined in section 431:10A-103 to its
13 regular employees, it shall offer the same family coverage to
14 part-time employees. The group or association shall not be
15 required by this section to pay any part of the premium for
16 coverage of part-time employees. The group or association shall
17 be responsible for any administrative duties required for the
18 enrollment of part-time employees such as monitoring
19 eligibility, collecting premiums, and transmitting payment to
20 the insurer.

1 (b) A group health insurer may limit periods of enrollment
2 for part-time employees to a minimum of thirty calendar days;
3 provided that:

4 (1) Part-time employees who experience a qualifying event
5 shall enroll with a group health insurer within thirty
6 days of the qualifying event; and

7 (2) Group health insurers shall be allowed to impose a
8 one-year waiting period against part-time employees
9 who terminate coverage for any reason. If a part-time
10 employee terminates coverage and a one-year waiting
11 period is imposed against the employee, a group health
12 insurer need not reenroll the employee until the
13 period of enrollment following the one-year waiting
14 period.

15 For the purposes of this section:

16 "Group or association" shall not include any state or
17 political subdivision of any state, or instrumentality thereof.

18 "Health care" includes hospitalization, surgery, medical or
19 nursing care, drugs, or restorative appliances.

20 "Part-time employee" means a person employed by a single
21 employer for at least fifteen, but less than twenty hours per
22 week and for a continuous period of at least eighteen months.

1 "Qualifying event" means the date on which the part-time
2 employee has been continuously employed by a single employer for
3 a period of eighteen months or the date on which a dependent of
4 the part-time employee becomes eligible for coverage through
5 loss of other health care coverage, marriage, birth, or
6 adoption.

7 "Regular employee" means a person employed by a single
8 employer for at least twenty hours per week."

9 SECTION 8. (a) The insurance commissioner shall prepare a
10 report of the costs and benefits of sections 4, 5, 6, and 7 of
11 this Act. The report shall be prepared with the cooperation and
12 assistance of the disability compensation division of the
13 department of labor and industrial relations. The report shall
14 include:

- 15 (1) An evaluation of the success of sections 4, 5, 6, and
16 7 of this Act in providing part-time employees with
17 access to health care coverage;
- 18 (2) An evaluation of the costs to employees, employers,
19 and insurers of providing that coverage;
- 20 (3) Any recommendations concerning sections 4, 5, 6, and 7
21 of this Act; and

1 (4) Any other information necessary for a reasonable
2 assessment of the costs and benefits of sections 4, 5,
3 6, and 7 of this Act to be made, and to allow health
4 care coverage to be made available to part-time
5 employees at the lowest possible cost.

6 (b) Each insurer subject to sections 4, 5, 6, and 7 of
7 this Act shall submit, at the time and in the form prescribed by
8 the insurance commissioner, the information deemed necessary by
9 the insurance commissioner to complete the report required by
10 this section. In obtaining this information, the insurance
11 commissioner shall seek to minimize an insurer's cost of
12 compliance.

13 (c) The insurance commissioner shall report its findings,
14 recommendations, and any proposed legislation to the legislature
15 no later than twenty days prior to the convening of the regular
16 session of 2011.

17 SECTION 9. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 10. This Act shall take effect upon its approval;
20 provided that:

21 (1) Sections 1, 2, and 3 of this Act shall be repealed on
22 July 1, 2011;

1 (2) Sections 431:1-102 and 432D-19, Hawaii Revised
2 Statutes, shall be reenacted in the form in which they
3 read on the day before the approval of this Act; and
4 (3) Sections 4, 5, 6, and 7 of this Act shall take effect
5 on January 1, 2020, and shall be repealed on July 1,
6 2014.

Report Title:

Group Health Insurers; Small Business; Part-time Employees

Description:

Requires insurers to offer continuation of coverage to employees who lose coverage due to termination or reduction of hours. Requires insurers that offer health care coverage to the regular employees of any group or association to offer the same coverage to part-time employees working a certain amount of hours per week and for a minimum length of time. Requires the insurance commissioner to submit a cost-benefit report to the legislature. Part I effective upon approval. Part II effective 01/01/20. Part I sunsets 07/01/11. Part II sunsets 07/01/14. (SD2)