
A BILL FOR AN ACT

RELATING TO THIRD PARTY LIABILITY FOR MEDICAID.

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

1 SECTION 1. When Congress passed the Deficit Reduction Act
2 of 2005, P.L. 109-171, it made a number of amendments to section
3 1902 of the Social Security Act intended to strengthen states'
4 ability to identify and collect from liable third party payers.

5 The purpose of this Act is to make necessary amendments to
6 state laws to comply with the federal amendments.

7 SECTION 2. Chapter 431L, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§431L- Insurer requirements. Any health insurer as
11 identified in section 431L-1 shall:

12 (1) Provide, with respect to individuals who are eligible
13 for, or are provided, medical assistance under title
14 42 U.S.C. section 1396a (section 1902 of the Social
15 Security Act), as amended, upon the request of the
16 State, information to determine during what period the
17 individual or the individual's spouse or dependents

1 may be or may have been covered by a health insurer
2 and the nature of the coverage that is or was provided
3 by the health insurer, including the name, address,
4 and identifying number of the plan in a manner
5 prescribed by the State;

6 (2) Accept the State's right of recovery and the
7 assignment to the State of any right of an individual
8 or other entity to payment from the party for an item
9 or service for which payment has been made for medical
10 assistance under title 42 U.S.C. section 1396a
11 (Section 1902 of the Social Security Act);

12 (3) Respond to any inquiry by the State regarding a claim
13 for payment for any health care item or service that
14 is submitted not later than three years after the date
15 of the provision of the health care item or service or
16 the date the State knew of the health care item or
17 service, whichever is longer; and

18 (4) Agree not to deny a claim submitted by the State
19 solely on the basis of the date of submission of the
20 claim, the type or format of the claim form, or a
21 failure to present proper documentation at the point-
22 of-sale that is the basis of the claim, if:

1 (A) The claim is submitted by the State within the
 2 three-year period beginning on the date on which
 3 the item or service was furnished or the date the
 4 State knew of the health care item or service
 5 that was furnished, whichever is longer; and

6 (B) Any action by the State to enforce its rights
 7 with respect to the claim is commenced within six
 8 years of the State's submission of the claim."

9 SECTION 3. Section 346-1, Hawaii Revised Statutes, is
 10 amended by adding a new definition to be appropriately inserted
 11 and to read as follows:

12 "First Party" includes health insurers, self-insured
 13 plans, group plans, service benefit plans, managed care
 14 organizations, health maintenance organizations, pharmacy
 15 benefit managers, or other parties that are by statute,
 16 contract, or agreement, legally responsible for payment of a
 17 claim for a health care item or service."

18 SECTION 4. Section 431L-1, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "**[+]§431L-1[+]** **Insurers prohibited from taking medicaid**
 21 **status into account.** Any health insurer (including a group
 22 health plan, as defined in section 607(1) of the Employee

1 Retirement Income Security Act of 1974, a self-insured plan, a
2 health service benefit plan, a mutual benefit society, a
3 fraternal benefit society [~~and~~], a health maintenance
4 organization[~~}]~~, a managed care organization, a pharmacy benefit
5 manager, or other party that is, by statute, contract, or
6 agreement, legally responsible for payment of a claim for a
7 health care item or service) is prohibited, in enrolling an
8 individual or in making any payments for benefits to the
9 individual or on the individual's behalf, from taking into
10 account that the individual is eligible for or is provided
11 medical assistance under 42 U.S.C. section 1396a (Section 1902
12 of the Social Security Act) herein referred to as medicaid, for
13 this State, or any other state."

14 SECTION 5. Section 431L-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[§]431L-2[§]~~ **State's right to third party or first party**
17 **payments.** To the extent that payment has been made under the
18 state plan for medical assistance in any case where a third
19 party or first party has a legal liability to make payment for
20 such assistance, the State has in effect laws under which, to
21 the extent that payment has been made under the state plan for
22 medical assistance for health care items or services furnished

1 to an individual, the State is considered to have acquired the
2 rights of such individual to payment by any other party for such
3 health care items or services."

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

Report Title:

Third Party Liability for Medicaid

Description:

Ensures state compliance with the Deficit Reduction Act of 2005 (P.L. 109-171) by strengthening the State's ability to identify and obtain payments from first or third party payers that are legally responsible to pay for health care services received by medicaid recipients primary to medicaid. (SD1)