

JAN 21 2010

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE PREMIUMS.

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

1 SECTION 1. The legislature finds that there is a vital
2 need for employers and consumers to have a clear understanding
3 of how health care premiums are allocated by health insurance
4 companies in this State and particularly how much of their
5 premium dollars are spent on health care services as opposed to
6 administration, profit, or other purposes. Full transparency of
7 how health care insurance premiums are spent will empower health
8 insurance purchasers to make informed decisions and reward
9 companies that minimize administrative waste.

10 According to the Kaiser Family Foundation, since 1999,
11 health insurance premiums have increased one hundred and thirty
12 one per cent - from \$5,791 in 1999 to \$13,375 in 2009 - as
13 compared to a general inflation increase of only twenty-eight
14 per cent and an average worker's earnings increase of
15 thirty-eight per cent. Worker premium contributions have
16 similarly increased from \$1,619 to \$3,354 between 2000 and 2008.



1 According to the Commonwealth Fund, the fastest rising
2 component of health care spending is administrative overhead.
3 Between 2000 and 2005, the net insurance administrative
4 overhead, including both administrative expenses and insurance
5 industry profits, increased by twelve per cent per year. This
6 increase is 3.4 percentage points faster than the average health
7 expenditure growth of 8.6 per cent.

8 The legislature further finds that a minimum medical
9 expense threshold is necessary to maximize the value of health
10 insurance premiums and is an important step toward controlling
11 spiraling health care costs, which are due, in part, to the
12 dramatic rise in administrative costs and insurer profits.

13 The purpose of this Act is to require insurers to annually
14 report how health care premiums are spent with emphasis on
15 administrative and medical expenses and to designate a minimum
16 medical expense threshold.

17 SECTION 2. Chapter 431:14G, Hawaii Revised Statutes, is
18 amended by adding two new sections to be appropriately
19 designated and to read as follows:

20 "§431:14G- Medical expense threshold requirements. (a)
21 Insurers shall spend a minimum of the health insurance premiums
22 earned in a calendar year on medical expenses as follows:



1 (1) Eighty per cent of health insurance premiums collected
2 from individual and small employer insureds for
3 individual and small employer products; and

4 (2) Eighty-five per cent of health insurance premiums
5 collected from large employer insureds for large
6 employer products.

7 The instructions and methodology for calculating and
8 reporting medical expense threshold levels and issuing dividends
9 or credits shall be specified by the commissioner.

10 (b) In each case where the insurer fails to comply with
11 the medical expense threshold requirements set forth in section
12 (a), the insurer shall issue a dividend or credit toward future
13 premiums for the policyholder that is not less than an amount
14 that would meet the applicable minimum requirement.

15 (c) Prior to distributing any dividend or credit, an
16 insurer shall provide the commissioner with its plan for the
17 distribution of all required dividends and credits as part of
18 the required annual medical expense threshold. No distributions
19 of required dividends or credits may be made without prior
20 approval from the commissioner.



1 (d) The dividend or credit required to be distributed
2 pursuant to subsections (b) and (c) shall be determined by the
3 commissioner.

4 (e) Insurers that issue health insurance policies through
5 out-of-state trusts, purchasing alliances or other group
6 purchasing organizations, associations, or other multiple
7 employer arrangements shall specify in the plan for distribution
8 of dividends or credits that the dividends or credits for the
9 health insurance policies shall be paid or credited, as
10 applicable, to the covered employers, not the trust,
11 association, purchasing alliance or other group purchasing
12 organization, or other multiple employer arrangement.

13 (f) If an insurer is required to issue a dividend or
14 credit, the insurer shall include the insurer's calculations of
15 the dividend or credits to be issued due to failure to satisfy
16 the minimum medical expense threshold and an explanation of the
17 insurer's plan to issue these dividends and credits in its
18 annual premium transparency report.

19 (g) Any consumer or employer, or their representatives,
20 shall be entitled to seek an injunction to enforce any
21 obligation established by this section or any rule adopted
22 pursuant to this section.



1 (h) Notwithstanding any provisions in this article to the
2 contrary, any insurer failing or refusing to comply with the
3 reporting requirements of this section or of any rules adopted
4 pursuant to this section, shall be liable for a fine of no less
5 than \$1,000, and no more than \$10,000, for each day of
6 violation.

7 (i) For purposes of this section:

8 "Health insurer" means any entity, including an insurance
9 company authorized to issue health insurance, a health
10 maintenance organization, or any other entity providing a plan
11 of health insurance, health benefits, or health care services,
12 that is subject to the insurance laws and regulation of this
13 State or subject to the jurisdiction of the commissioner.

14 "Medical expense" means the amount of money that the
15 insurer spends on direct medical care services for enrollees
16 during a calendar year. This includes the insurer's total
17 financial obligation for physician services, non-physician
18 health care professional services, hospital and other health
19 facility services, drugs and medical devices, and other health
20 care services that the health insurer incurs on behalf of its
21 enrollees. It shall also include amounts paid to health care
22 providers for pay-for-performance or other quality or efficiency



1 enhancing initiatives. The term "medical expense" does not
2 include amounts which are the financial responsibility of the
3 enrollee, the insurer's administrative costs, or expenditures
4 for which the insurer is reimbursed by an enrollee's other
5 insurance coverage or other third party liability.

6 "Medical expense threshold" means the quotient, to the
7 nearest one per cent, of the total medical expenses divided by
8 the total premiums.

9 "Multiple employer arrangement" means an arrangement
10 established or maintained to provide health benefits to
11 employees, and their dependents, of two or more employers. In a
12 multiple employer arrangement, the employer assumes all or a
13 substantial portion of the risk and shall include a multiple
14 employer welfare arrangement, multiple employer trust, or other
15 form of benefit trust.

16 "Premiums" means the amount of money that the insurer earns
17 in a calendar year from the sale of health insurance, excluding
18 dividends or credits applicable to prior years.

19 **§431:14G- Annual premium transparency report.** (a)
20 Insurers shall submit an annual premium transparency report
21 disclosing how health insurance premiums are spent annually.
22 The premium transparency report shall include information for



1 each of the following categories of insurance provided by the
2 insurer: preferred provider organization, health maintenance
3 organization, point of service, and high deductible health plan.
4 This report shall include the following information for each
5 category of insurance:

6 (1) A specific breakdown of administrative costs for the
7 preceding calendar year as follows:

8 (A) Chief executive officer and executive salaries
9 and benefits;

10 (B) Commissions and other broker fees;

11 (C) Utilization and other benefit management
12 expenses;

13 (D) Advertising and marketing expenses;

14 (E) Insurance, including the following categories of
15 commercial insurance:

16 (i) Reinsurance;

17 (ii) General liability;

18 (iii) Professional liability insurer; and

19 (iv) Other insurance types;

20 (F) Taxes, including:

21 (i) State and local insurance taxes;

22 (ii) State premium taxes;



- 1 (iii) Payroll taxes;
- 2 (iv) Federal and state income taxes;
- 3 (v) Real estate taxes; and
- 4 (vi) Other taxes;
- 5 (G) Travel and entertainment expenses;
- 6 (H) State and federal lobbying expenses;
- 7 (I) Other expenses, including non-executive salaries,
- 8 wages and other benefits; rent and real estate
- 9 expenses; certification, accreditation, board,
- 10 bureau and association fees; auditing and
- 11 actuarial fees; collection and bank service
- 12 charges; occupancy, depreciation and
- 13 amortization; cost or depreciation of electronic
- 14 data processing; claims and other services;
- 15 regulatory authority licenses and fees;
- 16 investment expenses; and aggregate write-ins for
- 17 expenses; and
- 18 (J) Total expenses incurred in subparagraphs (A) to
- 19 (I):
- 20 (2) The reporting insurer's name and address;



1 (3) The insurer's total earned premiums for the preceding
2 calendar year, before dividends or credits applicable
3 to prior years;

4 (4) The amount of interest earned on premiums for the
5 preceding calendar year;

6 (5) The amount recovered from uninsured motorist
7 insurance, accident insurance, workers' compensation
8 insurance, and other third party liability during the
9 preceding calendar year;

10 (6) The total medical expense incurred during the
11 preceding calendar year;

12 (7) Certification by a member of the American Academy of
13 Actuaries that the information provided in the report
14 is accurate and complete and that the insurer is in
15 compliance with this section and rules adopted
16 pursuant to this section; and

17 (8) Other information as the commissioner may request.

18 (b) Insurers shall file the premium transparency report
19 with the commissioner no later than March 1 of each year for the
20 premiums earned for the immediately preceding calendar year.

21 (c) Notwithstanding any provisions in this article to the
22 contrary, any insurer failing or refusing to comply with the



1 reporting requirements of this section or of any rules adopted
2 pursuant to this section, shall be liable for a fine of no less
3 than \$1,000, and no more than \$10,000, for each day of
4 violation.

5 (d) All data or information required to be filed with the
6 commissioner pursuant to this section shall be deemed a public
7 record.

8 (e) Any consumer, or employer, or their representatives,
9 shall be entitled to seek an injunction to enforce any
10 obligation established by this section or any rules adopted
11 pursuant to this section.

12 (f) For purposes of this section:

13 "Administrative costs" means all expenditures associated
14 with the administration of health benefit coverage, including
15 costs associated with claims processing, collection of premiums,
16 marketing, operations, taxes, general overhead, salaries and
17 benefits, quality assurance, utilization review and management,
18 pharmacy and other benefit management, network contracting and
19 management, and state and federal regulatory compliance.

20 "Interest" means the interest earned on the premiums by the
21 insurer.



1 "Premiums" means the amount of money that the insurer earns
 2 in a calendar year from the sale of health insurance, excluding
 3 dividends or credits applicable to prior years."

4 SECTION 3. This Act does not affect rights and duties that
 5 matured, penalties that were incurred, and proceedings that were
 6 begun before its effective date.

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

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Report Title:

Health Insurance Premiums

Description:

To increase health insurance premium transparency and to require a minimum amount of premiums to be spent on medical expenses.

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