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# 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. The Hawaii Employer-Union Health Benefits Trust  
3 Fund (EUTF) recently implemented a reference-based pricing  
4 program as part of its prescription drug plan. Reference-based  
5 pricing is a reimbursement process in which a ceiling price is  
6 set for medications that exhibit similar therapeutic benefits.  
7 Under the reference-based pricing program, members are only  
8 offered one choice and must switch to this preferred drug or pay  
9 the full cost of the prescription to stay with their current  
10 medication. Reference-based pricing has been implemented for  
11 three common disease states.

12 The legislature finds that while the objective of  
13 reference-based pricing is to lower the costs of the plan  
14 sponsor or insurer, it can instead result in cost-shifting to  
15 the member or health plan, as well as the rationing of pharmacy  
16 care. Although the concept of therapeutic equivalence of drugs  
17 in certain categories is sound, some patients may have an  
18 inadequate response or adverse reaction to the preferred



1 medication. This may result in complications with the patient  
2 and higher health costs overall. A health plan that uses  
3 reference-based pricing must have robust clinical data to  
4 support the defined drug treatment categories, as well as basic  
5 communication platforms to establish medical exceptions that  
6 allow the ability to petition for the necessary medication based  
7 on medical justification of its use.

8       The legislature further finds that while reference-based  
9 pricing programs are utilized in certain European countries,  
10 there are no jurisdictions in the United States that have had  
11 the programs in place for a substantial period of time.  
12 Implemented utilization management programs similar to  
13 reference-based pricing have been shown to increase the rate of  
14 hospitalizations and emergency room visits. Without sufficient  
15 data to support reference-based pricing in the United States, a  
16 thorough examination and review should be conducted to determine  
17 if there are any detrimental consequences before implementing a  
18 significant change.

19       The purpose of this part is to place a moratorium on the  
20 reference-based pricing program currently in place in the EUTF  
21 prescription drug plan in order to conduct a comprehensive study  
22 of the program and the effects it has on EUTF members.



1 SECTION 2. The EUTF shall place a moratorium through  
2 June 30, 2012, on the reference-based pricing program currently  
3 in place in its prescription drug plan. The EUTF board shall  
4 have thirty days from the effective date of this Act to comply  
5 with implementing the moratorium.

6 SECTION 3. During the moratorium, the EUTF shall conduct a  
7 comprehensive study on the feasibility and long-term effects of  
8 the reference-based pricing program currently in place in its  
9 prescription drug plan that includes but is not limited to  
10 issues related to the EUTF budget, the program's impact on the  
11 health of EUTF members, the processing time and administrative  
12 costs of permitting medical exceptions, the rate of change of  
13 total medical costs if the program is enacted, the quality of  
14 health care that EUTF members are receiving, and the cost  
15 savings under the program for EUTF members and the health plan.

16 The EUTF shall submit a report of its findings to the  
17 legislature no later than twenty days prior to the convening of  
18 the regular session of 2012.

19 SECTION 4. For the purposes of this part, "referenced-  
20 based pricing" means a reimbursement method in which payors set  
21 a capped price for medications that exhibit similar therapeutic  
22 benefits for drugs within a specific therapeutic class.



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PART II

SECTION 5. The department of health shall execute a budget neutral pilot program that explores the use of a mobile health van equipped with telecommunication services using managed care principles, to include the following:

- (1) Unrestricted access to an individual's primary care physician;
- (2) Access to specialist care as authorized by the individual's primary care physician; and
- (3) The requirement that any documentation related to visits with physicians other than the primary care physician shall be provided to the primary care physician.

PART III

SECTION 6. Chapter 431, article 10A, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§431:10A- Prescription drug coverage; medically necessary; continuation of coverage. Except for members of the Hawaii employer-union health benefits trust fund, if an insured's physician determines within six months of a change in insurer by the insured or a change in an insurer's prescription

1 drug formulary or coverage policy, that it is in the best  
2 interest of the insured to continue to have coverage for a  
3 certain prescription medication that the physician determines to  
4 be life-saving, any insurer that issues a policy that offers  
5 coverage for prescription drug benefits shall continue coverage  
6 for that prescription medication under any policy entered into  
7 by the insured and the insurer on or after July 1, 2010.

8 A medication shall be deemed life saving if it is necessary  
9 to treat a chronic disease or illness, maintain the patient's  
10 life, or preserve the patient's health or quality of life to the  
11 extent that the patient would be unable to continue to perform  
12 necessary life activities such as work, school, self-care, or  
13 independent living to the same degree without the medication as  
14 with it. Life-saving medication shall include but shall not be  
15 limited to:

16 (1) Anticancer drugs, including both oral and intravenous  
17 chemotherapy;

18 (2) Intravenous immune globulin therapy, also known as  
19 IVIG; and

20 (3) Pediatric prescriptions for children with chronic  
21 diseases or conditions.

22 (b) For the purposes of this section:



1       "Coverage" means the benefits, costs, and requirements for  
2 patient access to medical products and services as enumerated in  
3 the written explanation of benefits document issued by the  
4 health carrier.

5       "Prescription drug benefits" means the prescription drug  
6 benefits as defined in the explanation of benefits document  
7 issued by the health insurance carrier that describes the cost,  
8 cost-sharing, and available medications, as well as any  
9 utilization management requirements that patients must meet in  
10 order to access the prescribed drug."

11       SECTION 7. Chapter 431, article 10A, Hawaii Revised  
12 Statutes, is amended by adding a new section to part II to be  
13 appropriately designated and to read as follows:

14       "§431:10A- Prescription drug coverage; medically  
15 necessary; continuation of coverage. Except for members of the  
16 Hawaii employer-union health benefits trust fund, if an  
17 insured's physician determines within six months of a change in  
18 insurer by the insured or a change in an insurer's prescription  
19 drug formulary or coverage policy, that it is in the best  
20 interest of the insured to continue to have coverage for a  
21 certain prescription medication that the physician determines to  
22 be life-saving, any insurer that issues a policy that offers



1 coverage for prescription drug benefits shall continue coverage  
2 for that prescription medication under any policy entered into  
3 by the insured and the insurer on or after July 1, 2010.

4 A medication shall be deemed life saving if it is necessary  
5 to treat a chronic disease or illness, maintain the patient's  
6 life, or preserve the patient's health or quality of life to the  
7 extent that the patient would be unable to continue to perform  
8 necessary life activities such as work, school, self-care, or  
9 independent living to the same degree without the medication as  
10 with it. Life-saving medication shall include but shall not be  
11 limited to:

- 12 (1) Anticancer drugs, including both oral and intravenous  
13 chemotherapy;  
14 (2) Intravenous immune globulin therapy, also known as  
15 IVIG; and  
16 (3) Pediatric prescriptions for children with chronic  
17 diseases or conditions.

18 (b) For the purposes of this section:

19 "Coverage" means the benefits, costs, and requirements for  
20 patient access to medical products and services as enumerated in  
21 the written explanation of benefits document issued by the  
22 health carrier.



1 "Prescription drug benefits" means the prescription drug  
2 benefits as defined in the explanation of benefits document  
3 issued by the health insurance carrier that describes the cost,  
4 cost-sharing, and available medications, as well as any  
5 utilization management requirements that patients must meet in  
6 order to access the prescribed drug."

7 SECTION 8. Chapter 432, article I, Hawaii Revised  
8 Statutes, is amended by adding a new section to part VI to be  
9 appropriately designated and to read as follows:

10 "§432:1- Prescription drug coverage; medically  
11 necessary; continuation of coverage. Except for members of the  
12 Hawaii employer-union health benefits trust fund, if an  
13 insured's physician determines within six months of a change in  
14 insurer by the insured or a change in an insurer's prescription  
15 drug formulary or coverage policy, that it is in the best  
16 interest of the insured to continue to have coverage for a  
17 certain prescription medication that the physician determines to  
18 be life-saving, any insurer that issues a policy that offers  
19 coverage for prescription drug benefits shall continue coverage  
20 for that prescription medication under any policy entered into  
21 by the insured and the insurer on or after July 1, 2010.





1       A medication shall be deemed life saving if it is necessary  
2 to treat a chronic disease or illness, maintain the patient's  
3 life, or preserve the patient's health or quality of life to the  
4 extent that the patient would be unable to continue to perform  
5 necessary life activities such as work, school, self-care, or  
6 independent living to the same degree without the medication as  
7 with it. Life-saving medication shall include but shall not be  
8 limited to:

- 9       (1) Anticancer drugs, including both oral and intravenous  
10 chemotherapy;  
11       (2) Intravenous immune globulin therapy, also known as  
12 IVIG; and  
13       (3) Pediatric prescriptions for children with chronic  
14 diseases or conditions.

15       (b) For the purposes of this section:

16       "Coverage" means the benefits, costs, and requirements for  
17 patient access to medical products and services as enumerated in  
18 the written explanation of benefits document issued by the  
19 health carrier.

20       "Prescription drug benefits" means the prescription drug  
21 benefits as defined in the explanation of benefits document  
22 issued by the health insurance carrier that describes the cost,



1 cost-sharing, and available medications, as well as any  
2 utilization management requirements that patients must meet in  
3 order to access the prescribed drug."

4 SECTION 9. Chapter 432, article II, Hawaii Revised  
5 Statutes, is amended by adding a new section to part IV to be  
6 appropriately designated and to read as follows:

7 "§432:2- Prescription drug coverage; medically  
8 necessary; continuation of coverage. Except for members of the  
9 Hawaii employer-union health benefits trust fund, if an  
10 insured's physician determines within six months of a change in  
11 insurer by the insured or a change in an insurer's prescription  
12 drug formulary or coverage policy, that it is in the best  
13 interest of the insured to continue to have coverage for a  
14 certain prescription medication that the physician determines to  
15 be life-saving, any insurer that issues a policy that offers  
16 coverage for prescription drug benefits shall continue coverage  
17 for that prescription medication under any policy entered into  
18 by the insured and the insurer on or after July 1, 2010.

19 A medication shall be deemed life saving if it is necessary  
20 to treat a chronic disease or illness, maintain the patient's  
21 life, or preserve the patient's health or quality of life to the  
22 extent that the patient would be unable to continue to perform



1 necessary life activities such as work, school, self-care, or  
2 independent living to the same degree without the medication as  
3 with it. Life-saving medication shall include but shall not be  
4 limited to:

5 (1) Anticancer drugs, including both oral and intravenous  
6 chemotherapy;

7 (2) Intravenous immune globulin therapy, also known as  
8 IVIG; and

9 (3) Pediatric prescriptions for children with chronic  
10 diseases or conditions.

11 (b) For the purposes of this section:

12 "Coverage" means the benefits, costs, and requirements for  
13 patient access to medical products and services as enumerated in  
14 the written explanation of benefits document issued by the  
15 health carrier.

16 "Prescription drug benefits" means the prescription drug  
17 benefits as defined in the explanation of benefits document  
18 issued by the health insurance carrier that describes the cost,  
19 cost-sharing, and available medications, as well as any  
20 utilization management requirements that patients must meet in  
21 order to access the prescribed drug."



1 SECTION 10. Chapter 432D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§432D- Prescription drug coverage; medically necessary;  
5 continuation of coverage. Except for members of the Hawaii  
6 employer-union health benefits trust fund, if an insured's  
7 physician determines within six months of a change in insurer by  
8 the insured or a change in an insurer's prescription drug  
9 formulary or coverage policy, that it is in the best interest of  
10 the insured to continue to have coverage for a certain  
11 prescription medication that the physician determines to be  
12 life-saving, any insurer that issues a policy that offers  
13 coverage for prescription drug benefits shall continue coverage  
14 for that prescription medication under any policy entered into  
15 by the insured and the insurer on or after July 1, 2010.

16 A medication shall be deemed life saving if it is necessary  
17 to treat a chronic disease or illness, maintain the patient's  
18 life, or preserve the patient's health or quality of life to the  
19 extent that the patient would be unable to continue to perform  
20 necessary life activities such as work, school, self-care, or  
21 independent living to the same degree without the medication as



1 with it. Life-saving medication shall include but shall not be  
2 limited to:

- 3       (1) Anticancer drugs, including both oral and intravenous
- 4             chemotherapy;
- 5       (2) Intravenous immune globulin therapy, also known as
- 6             IVIG; and
- 7       (3) Pediatric prescriptions for children with chronic
- 8             diseases or conditions.

9       (b) For the purposes of this section:

10       "Coverage" means the benefits, costs, and requirements for  
11 patient access to medical products and services as enumerated in  
12 the written explanation of benefits document issued by the  
13 health carrier.

14       "Prescription drug benefits" means the prescription drug  
15 benefits as defined in the explanation of benefits document  
16 issued by the health insurance carrier that describes the cost,  
17 cost-sharing, and available medications, as well as any  
18 utilization management requirements that patients must meet in  
19 order to access the prescribed drug."

20       SECTION 11. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 12. This Act shall take effect upon its approval;  
2 provided that part I of this Act shall be repealed on June 30,  
3 2012.  
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**Report Title:**

Reference-based Pricing; Prescription Drugs; Mobile Health Vans

**Description:**

Requires a moratorium on the existing reference-based pricing program for prescription drug plan members through June 30, 2012; requires a study on the feasibility and long-term effects of reference-based pricing programs; requires pilot program to explore the use of mobile health vans; and provides for continuing coverage of prescription medication under any policy entered into by an insured or insurer on or after July 1, 2010.  
(SD1)

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