

JAN 23 2009

A BILL FOR AN ACT

RELATING TO THE PATIENTS' BILL OF RIGHTS.

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

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

4 "§432E- Unfair or deceptive acts or practices in the
5 managed care plan business. (a) The following are defined as
6 unfair or deceptive acts or practices in the managed care plan
7 business and shall be prohibited:

8 (1) Canceling, denying, or nonrenewing an enrollment or
9 subscription in the managed care plan because of the
10 enrollee's or subscriber's health status;

11 (2) Rescinding or modifying an authorization for a
12 specific type of treatment by a provider after the
13 provider renders or begins rendering the health care
14 service in good faith and pursuant to the managed care
15 plan's authorization;

16 (3) Changing the premium rates, copayments, coinsurances,
17 or deductibles of a contract after receipt of payment



1 by the managed care plan of the premium for the first
2 month of coverage in accordance with the contract
3 effective date; provided that changes shall be allowed
4 if authorized or required in the group contract, if
5 the contract was agreed to under a preliminary
6 agreement that states that it is subject to the
7 execution of a definitive agreement, or if the managed
8 care plan and the contract-holder mutually agree in
9 writing;

10 (4) Engaging in post-claims underwriting. As used herein,
11 "post-claims underwriting" means the rescinding,
12 canceling, or limiting of a managed care plan contract
13 due to the managed care plan's failure to complete
14 medical underwriting and resolve all reasonable
15 questions arising from written information that the
16 managed care plan requires enrollees or subscribers to
17 submit before issuing the managed care plan contract.
18 This paragraph shall not limit a managed care plan's
19 remedies upon a showing of an enrollee's or
20 subscriber's wilful misrepresentation; and

21 (5) Establishing an eligible charge for a nonparticipating
22 provider service that is different from the eligible



1 charge paid for the same service rendered by a
2 participating provider. As used herein, "eligible
3 charge" means the amount that is payable by the
4 managed care plan for a treatment, service, or supply,
5 prior to making deduction for cost-sharing.

6 (b) The commissioner shall by certified mail notify the
7 managed care plan of each complaint filed with the commissioner
8 under this section.

9 (c) A managed care plan shall issue a written response
10 with reasonable promptness, in no case more than fifteen working
11 days, to any notification or written inquiry made by the
12 commissioner regarding a complaint. The response shall be more
13 than an acknowledgment that the commissioner's communication has
14 been received and shall completely and substantively address the
15 complaint or concerns stated in the communication.

16 (d) If it is found, after notice and an opportunity to be
17 heard, that an insurer has violated this section, the violation
18 shall be subject to section 431:2-203.

19 (e) Evidence as to numbers and types of complaints to the
20 commissioner against a managed care plan and the commissioner's
21 complaint experience with other managed care plans shall be



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1 admissible in an administrative or judicial proceeding brought
2 under this section."

3 SECTION 2. Section 431:14G-103, Hawaii Revised Statutes,
4 is amended by amending subsection (a) to read as follows:

5 "(a) Rates shall not be excessive, inadequate, or unfairly
6 discriminatory and shall be reasonable in relation to the costs
7 of the benefits provided[-]; provided that the rate charged to
8 any individual shall not exceed two hundred per cent of the
9 standard group rate."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on January 1, 2010.

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INTRODUCED BY:

[Signature]
Avid Y Ige
Thomas Chun Auldland
Ronald de Poel
Mike Hadden
[Signature]



Report Title:

Patients' Bill of Rights; Health Insurance; Coverage; Rates

Description:

Amends the patients' bill of rights by prohibiting certain unfair or deceptive business practices by managed care plans, such as canceling, denying, or nonrenewing an enrollment or subscription because of a person's health status; prohibits rates for any individual that exceed 200% of the standard group rate.

