

JAN 23 2009

A BILL FOR AN ACT

RELATING TO UNIVERSAL HEALTH INSURANCE.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Part-time employee prepaid health care tax
5 credit. (a) Each individual and corporate resident taxpayer
6 subject to the tax imposed by this chapter, who is an employer
7 as defined in this section, and who files an individual or
8 corporate net income tax return for a taxable year, regardless
9 of adjusted gross income, may claim a part-time employee prepaid
10 health care credit against the taxpayer's individual or
11 corporate net income tax liability for the taxable year in which
12 the credit is claimed and for which the income tax return is
13 being filed. The tax credit under this section, may be claimed
14 by any employer who provides health care coverage for part-time
15 employees by a prepaid group health care plan pursuant to
16 chapter 393 and may be claimed only once in the taxable year



1 regardless of the number of owners or the number of partners or
2 corporate officers.

3 (b) The amount of the tax credit shall be an amount equal
4 to fifty per cent of any costs of providing prepaid group health
5 plan coverage for the taxable year in which the payments are
6 made.

7 (c) All claims, including any amended claims, for tax
8 credits under this section shall be filed on or before the end
9 of the twelfth month following the close of the taxable year for
10 which the credit may be claimed. Failure to comply with the
11 foregoing provision shall constitute a waiver of the right to
12 claim the credit.

13 (d) If the tax credit under this section exceeds the
14 taxpayer's income tax liability for any year that the credit is
15 taken, the excess of the tax credit over liability may be used
16 as a credit against the taxpayer's income tax liability in
17 subsequent years until exhausted.

18 (e) The director of taxation shall prepare any forms that
19 may be necessary to claim a credit under this section. The
20 director may also require the taxpayer to furnish information to
21 ascertain the validity of the claims for credits made under this



1 section and may adopt rules necessary to effectuate the purposes
2 of this section pursuant to chapter 91.

3 (f) For the purposes of this section:

4 "Employer" means any individual or type of organization,
5 including any partnership, association, trust, estate, joint
6 stock company, insurance company, or corporation, whether
7 domestic or foreign, a debtor in possession or receiver or
8 trustee in bankruptcy, or the legal representative of a deceased
9 person, who has one or more regular employees in the employer's
10 employment. "Employer" does not include:

11 (1) The State, any of its political subdivisions, or any
12 instrumentality of the State or its political
13 subdivisions;

14 (2) The United States government or any instrumentality of
15 the United States;

16 (3) Any other state or its political subdivisions or
17 instrumentality of the state or its political
18 subdivisions;

19 (4) Any foreign government or instrumentality wholly owned
20 by a foreign government, if:

21 (A) The service performed in its employ is of a
22 character similar to that performed in foreign



1 countries by employees of the United States
2 government or of an instrumentality thereof; and
3 (B) The United States Secretary of State has
4 certified or certifies to the United States
5 Secretary of the Treasury that the foreign
6 government, with respect to whose instrumentality
7 exemption is claimed, grants an equivalent
8 exemption with respect to similar service
9 performed in the foreign country by employees of
10 the United States government and of
11 instrumentalities thereof.

12 "Part-time employee" means any person who engages in twenty
13 or fewer hours per week of service, including service in
14 interstate commerce, performed for wages under any contract of
15 hire, written or oral, expressed or implied, with an employer,
16 except as otherwise provided in sections 393-4 and 393-5 but
17 does not include a person employed in a seasonal pursuit as
18 defined in section 387-1."

19 SECTION 2. The Hawaii Revised Statutes, is amended by
20 adding a new chapter to be appropriately designated and to read
21 as follows:

22 "CHAPTER



1 HAWAII HEALTH INSURANCE PURCHASING POOL

2 § -1 Definitions. Whenever used in this chapter, unless
3 the context otherwise requires:

4 "Commissioner" means the state insurance commissioner.

5 "Creditable health care coverage" means an insurance policy
6 against bodily injury, disablement, or death by accident, or
7 accidental means, or the expense thereof; against disablement or
8 expense resulting from sickness; and every insurance
9 appertaining thereto, including health and medical insurance
10 that meets minimum coverage requirements as determined by the
11 commissioner. Creditable health care coverage includes an
12 individual or group health insurance plan, medicare part B,
13 United States Veterans Administration benefits, medicaid, or
14 other state or federal public assistance benefit so long as that
15 benefit meets the minimum coverage requirements as determined by
16 the commissioner.

17 "Eligible enrollee" means a person who is not eligible for
18 coverage under chapter 393 and is not eligible to receive
19 medical assistance that meets the minimum coverage requirements
20 as determined by the commissioner under a medical assistance
21 program administered by the department of human services, the



1 Social Security Administration, or the United States Veterans
2 Administration.

3 "Health care plan" means any agreement by which any health
4 care plan carrier, in consideration of a stipulated premium,
5 undertakes to either:

6 (1) Furnish health care, including hospitalization,
7 surgery, medical or nursing care, drugs or other
8 restorative appliances, subject to, if at all, only a
9 nominal per service charge; or

10 (2) Defray or reimburse, in whole or in part, the expenses
11 of health care.

12 "Health care plan carrier" or "carrier" means:

13 (1) Any medical group or organization that undertakes
14 under a health care plan to provide health care;

15 (2) Any nonprofit organization that undertakes under a
16 health care plan to defray or reimburse in whole or in
17 part the expenses of health care; or

18 (3) Any insurer who undertakes under a health care plan to
19 defray or reimburse in whole or in part the expenses
20 of health care.

21 "Program" means the Hawaii health insurance purchasing
22 pool.



1 "Resident" means a person whose primary place of habitation
2 is situated within this State and who, when absent from that
3 primary place of habitation, intends to return to it. The
4 following shall be prima facie evidence of residency within this
5 State:

- 6 (1) Filing a Hawaii resident income tax return;
- 7 (2) Declaring in a home mortgage document that the
8 mortgaged property located in this State shall be
9 occupied as a primary residence;
- 10 (3) Signing a residential rental or lease agreement that
11 declares that the rented or leased property shall be
12 occupied as a residence for not less than ninety days;
- 13 (4) Registering to vote in any precinct within this State;
- 14 (5) Paying, on one's own behalf or on behalf of a
15 dependent child or spouse, resident tuition fees for
16 regular courses of instruction at any University of
17 Hawaii system campus, including any community college;
- 18 (6) Having physical custody of a dependent child who is
19 enrolled in a public school or charter school in this
20 State;
- 21 (7) Receipt of public assistance from any program
22 administered by the department of human services on



1 behalf of one's self or on behalf of a dependent
2 child;

3 (8) Obtaining any benefit, exemption, deduction,
4 entitlement, license, permit, or privilege by claiming
5 principle residency within this State.

6 § -2 Hawaii health insurance purchasing pool;
7 established. (a) The Hawaii health insurance purchasing pool
8 is hereby established. The commissioner shall administer the
9 program as provided by this chapter.

10 § -3 Creditable health coverage mandatory. (a) Every
11 resident of this State shall obtain and maintain creditable
12 health care coverage no later than October 1, 2009.

13 (b) Residents who do not obtain and maintain creditable
14 health care coverage on or before October 1, 2009, or who do not
15 obtain replacement creditable health care coverage within ninety
16 days of losing creditable health care coverage, shall be
17 enrolled in the Hawaii health insurance purchasing pool.

18 (c) Residents who are enrolled in the Hawaii health
19 insurance purchasing pool shall be assessed a fee to cover a
20 portion of the cost to the program of purchasing group health
21 care coverage. This fee shall be not less than \$30 and not more



1 than \$200 per person per month as determined by the commissioner
2 based on the resident's household income.

3 (d) This section shall not apply to any individual who,
4 pursuant to the teachings, faith, or belief of any group,
5 depends for healing upon prayer or other spiritual means.

6 § -4 Powers of the commissioner. The commissioner may:

- 7 (1) Enter into contracts with carriers to provide health
8 care coverage to eligible enrollees and their
9 dependents. Any contract entered into pursuant to
10 this chapter shall be exempt from chapter 103D. The
11 commissioner shall not be required to specify the
12 amounts encumbered for each contract, but may allocate
13 funds to each contract based on projected and actual
14 subscriber enrollments;
- 15 (2) Enter into other contracts as are necessary or proper
16 to carry out this chapter;
- 17 (3) Employ necessary staff;
- 18 (4) Sue or be sued, including taking any legal actions
19 necessary or proper for recovering any penalties for,
20 on behalf of, or against, the Hawaii health insurance
21 purchasing pool or the commissioner;



- 1 (5) Define the health care coverage that the program will
2 purchase from carriers;
- 3 (6) Appoint committees as necessary to provide technical
4 assistance in the operation of the program;
- 5 (7) Assess participating enrollees a reasonable fee not
6 less than \$30 and not more than \$200 for necessary
7 costs in connection with the program;
- 8 (8) Undertake activities necessary to administer the
9 program, including the establishment of rules,
10 conditions, and procedures for participation;
11 marketing and publicizing the program; and assuring
12 carrier and enrollee compliance with program
13 requirements;
- 14 (9) Establish a financial relationship directly with
15 producers or insurance brokers to provide services
16 pursuant to the program;
- 17 (10) Approve the health care plans of carriers
18 participating in the pool;
- 19 (11) Adopt rules pursuant to chapter 91 to administer the
20 program; and



1 (12) Exercise all powers reasonably necessary to carry out
2 the commissioner's responsibilities under this
3 chapter.

4 § -5 **Contracts with carriers.** On or after the effective
5 date of this chapter, the commissioner shall enter into
6 contracts with carriers for the purpose of providing health care
7 coverage to eligible enrollees. Operating characteristics of
8 participating carriers shall include:

- 9 (1) Strong financial condition, including the ability to
10 assume the risk of providing and paying for covered
11 services. A participating carrier may utilize
12 reinsurance, provider risk sharing, and other
13 appropriate mechanisms to share a portion of the risk;
- 14 (2) Adequate administrative management;
- 15 (3) A system for identifying in a simple and clear fashion
16 both in its own records and in the medical records of
17 subscribers and enrollees of the health care plan that
18 the services provided are provided under the program;
- 19 (4) A satisfactory grievance procedure; and
- 20 (5) Where carriers contract with or employ health care
21 providers, adequate mechanisms to:
- 22 (A) Review the quality of care provided;



1 (B) Review the appropriateness of care provided; and

2 (C) Ensure that health care services are accessible.

3 § -6 **Carrier selection.** The commissioner shall contract
4 with a broad range of carriers, if available, to ensure that
5 eligible enrollees have a choice among a reasonable number and
6 reasonable types of competing carriers. The commissioner shall
7 develop and make available objective criteria for carrier
8 selection and provide adequate notice of the application process
9 to permit all carriers a reasonable and fair opportunity to
10 participate. The criteria and application process shall allow
11 participating carriers to comply with their state and federal
12 licensing and regulatory obligations, except as otherwise
13 provided in this chapter. Carrier selection shall be based on
14 criteria developed by the commissioner. The administrator shall
15 not eliminate any carrier from selection solely because of the
16 carrier's size or limited service area.

17 § -7 **Marketing and servicing contracts allowed.**

18 Participating carriers may contract with producers or insurance
19 brokers to provide marketing and servicing of health care
20 coverage offered through the program. Any commissions shall be
21 determined by the participating carrier and the producer or
22 insurance broker.



1 § -8 **Conditions of participation; enforcement.** The
2 commissioner shall set and enforce conditions of participation
3 in the program for eligible enrollees that shall conform with
4 the requirements of this chapter.

5 § -9 **Fee collections.** The commissioner shall establish
6 a mechanism to collect fees from enrollees.

7 § -10 **Reenrollment restrictions.** The commissioner may
8 assess a reasonable reenrollment fee against eligible enrollees
9 who drop coverage after enrolling in the pool without obtaining
10 other creditable coverage.

11 § -11 **Rates offered.** Premiums shall not exceed one
12 hundred and ten per cent of the median price of health insurance
13 offered within the State calculated on an annual basis.

14 § -12 **Right to appeal.** (a) A resident claiming status
15 as an eligible enrollee may appeal decisions on eligibility for
16 or enrollment in the program to the commissioner, and shall be
17 accorded an opportunity for a fair hearing.

18 (b) An eligible enrollee may appeal decisions on scope of
19 coverage or service provision under the program to the
20 commissioner, and shall be awarded an opportunity for a fair
21 hearing.



1 § -13 Hawaii health insurance purchasing pool special
2 fund. There is created a Hawaii health insurance purchasing
3 pool special fund. The fund shall consist of moneys collected
4 pursuant to this chapter, legislative appropriations for the
5 commissioner's operating expenses, and any interest or earnings
6 on moneys deposited into the fund. Moneys within the fund shall
7 be utilized for the purposes of this chapter; provided that the
8 commissioner's operating expenses shall not be paid with moneys
9 other than those appropriated by the legislature for that
10 purpose."

11 SECTION 3. Section 393-3, Hawaii Revised Statutes, is
12 amended by amending the definition of "regular employee" to read
13 as follows:

14 ""Regular employee" means a person [~~employed in the~~
15 ~~employment of any one employer for at least twenty hours per~~
16 ~~week]~~ who engages in service, including service in interstate
17 commerce, performed for wages under any contract of hire,
18 written or oral, expressed or implied, with an employer, but
19 does not include a person employed in seasonal employment.

20 "Seasonal employment" for the purposes of this paragraph means
21 employment in a seasonal pursuit as defined in section 387-1 by
22 a seasonal employer during a seasonal period or seasonal periods



1 for the employer in the seasonal pursuit or employment by an
2 employer engaged in the cultivating, harvesting, processing,
3 canning, and warehousing of pineapple during its seasonal
4 periods. The director by rule and regulation may determine the
5 kind of employment that constitutes seasonal employment."

6 SECTION 4. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2009-2010 and
9 the sum of \$ or so much thereof as may be necessary
10 for fiscal year 2010-2011 to be deposited into the Hawaii health
11 insurance purchasing pool special fund.

12 SECTION 5. There is appropriated out of the Hawaii health
13 insurance purchasing pool special fund the sum of \$ or
14 so much thereof as may be necessary for fiscal year 2009-2010
15 and the sum of \$ or so much thereof as may be
16 necessary for fiscal year 2010-2011 for the Hawaii health
17 insurance purchasing pool program.

18 SECTION 6. The sums appropriated shall be expended by the
19 department of commerce and consumer affairs for the purposes of
20 this Act.

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



Report Title:

Universal Health Insurance; Tax Credit; Appropriation

Description:

Creates a tax credit for employers to provide prepaid health insurance to part-time employees. Requires employers to provide prepaid health insurance to all regular employees. Mandates creditable health insurance coverage for all residents. Creates state health insurance purchasing pool for individuals who do not otherwise have access to creditable coverage. Makes an appropriation.

