



GOV. MSG. NO. 1196

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 30, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 30, 2012, the following bill was signed into law:

SB2798 SD1 HD1

RELATING TO INSURER REQUIREMENTS.
Act 095 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO INSURER REQUIREMENTS.

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 the
3 Social Security Act intended to strengthen states' ability to
4 identify and collect from liable third party payors that are
5 legally responsible to pay claims primary to medicaid.

6 To ensure the State's compliance with the requirements of
7 P.L. 109-171, the legislature passed Senate Bill No. 917,
8 Regular Session of 2009, enacted as Act 103, Session Laws of
9 Hawaii 2009, and codified in chapter 431L, Hawaii Revised
10 Statutes.

11 Federal and state statutes require that medicaid be the
12 payor of last resort for health insurance. To meet this
13 obligation, the department of human services, as the state
14 medicaid agency, requires information on medicaid recipients who
15 also have private health insurance.

16 Section 431L-2.5, Hawaii Revised Statutes, requires the
17 health care insurer to share information on an individual basis
18 at the State's request. This Act will require all private



1 health insurers operating in Hawaii to also share with the
2 department of human services, through an independent entity, a
3 listing of their members on a quarterly basis. Quarterly
4 reports will allow the department to determine on a timely basis
5 the eligibility of persons who apply for medicaid and to verify
6 the continuing eligibility for persons receiving health
7 insurance through the medicaid program.

8 Medicaid allows passive renewal and self-declaration to
9 facilitate eligibility, which makes it difficult for the
10 department to determine when a recipient's eligibility status
11 has changed because of employment, increased income, or being
12 provided health coverage under the prepaid health care act.

13 In the current economic climate of decreased state revenues
14 and the unfortunate necessity of reducing medical assistance
15 benefits, identifying areas to decrease expenditures with
16 minimal impact on the public becomes increasingly important.
17 The senate committee on ways and means stated in Standing
18 Committee Report No. 3033, Regular Session of 2010, that "the
19 State's economic difficulties threaten the provision of human
20 services under many state programs. Your Committee finds that,
21 despite budget cuts and realignments, it is important to



1 maintain the level of services that are provided to the neediest
2 populations in the State."

3 The legislature finds that while it is important for the
4 State to receive such information on a timely basis, the
5 security and privacy of the transmitted health information must
6 be ensured. To that end, the legislature further finds that
7 transmitting such private information through an independent,
8 highly secured data messaging and transmission system is
9 necessary. Accordingly, this Act requires that any individual's
10 information submitted by private health insurers, to ensure that
11 state medical assistance programs are the payor of last resort,
12 only be transmitted through a third party entity. The
13 legislature finds the best outcome will be obtained if health
14 insurers and the State cooperate and collaborate on this effort,
15 thus private health insurers will participate in evaluating the
16 qualifications of potential third entities.

17 The purpose of this Act is to require all private health
18 insurers operating in Hawaii to share with the department of
19 human services, on a timely basis, and through an independent
20 entity, a listing of their members for the State to have
21 accurate information on third party liability for its medical



1 assistance recipients. This will improve medicaid program
2 integrity and ensure that medicaid is the payor of last resort.

3 SECTION 2. Section 431L-2.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]§431L-2.5[+]~~ **Insurer requirements.** Any health insurer
6 as identified in section 431L-1 shall:

7 (1) Provide~~[, with respect to individuals who are eligible~~
8 ~~for, or are provided, medical assistance under Title~~
9 ~~42 United States Code section 1396a (section 1902 of~~
10 ~~the Social Security Act), as amended,]~~ upon the
11 request of the State, information for all of its
12 members to determine during what period the individual
13 or the individual's spouse or dependents may be or may
14 have been covered by a health insurer and the nature
15 of the coverage that is or was provided by the health
16 insurer, including the name, address, and identifying
17 number of the plan in a manner prescribed by the
18 State;

19 (2) Beginning in 2014, provide to an independent, third
20 party entity, no more than quarterly, a report listing
21 its members. The third party entity shall match this
22 report with one provided by the department of human



1 services and provide the department of human services
2 with third party liability information for medical
3 assistance recipients. The department of human
4 services shall determine the minimum data required to
5 ensure the validity of matches, which may include
6 name, date of birth, and social security number, as
7 available. The information provided by the health
8 insurers to the third party entity shall not be used
9 for any purpose other than that specified in this
10 chapter. The department of human services shall
11 provide for representation by private health insurers
12 in evaluating the qualifications of potential third
13 party entities and determining the minimum data fields
14 for matching;

15 [~~2~~] (3) Accept the State's right of recovery and the
16 assignment to the State of any right of an individual
17 or other entity to payment from the party for a health
18 care item or service for which payment has been made
19 for medical assistance under Title 42 United States
20 Code section 1396a (section 1902 of the Social
21 Security Act);



1 [~~(3)~~] (4) Respond to any inquiry by the State regarding a
2 claim for payment for any health care item or service
3 that is submitted not later than three years after the
4 date of the provision of the health care item or
5 service; and

6 [~~(4)~~] (5) Agree not to deny a claim submitted by the State
7 solely on the basis of the date of submission of the
8 claim, the type or format of the claim form, or a
9 failure to present proper documentation at the point-
10 of-sale that is the basis of the claim, if:

11 (A) The claim is submitted by the State within the
12 three-year period beginning on the date on which
13 the health care item or service was furnished;
14 and

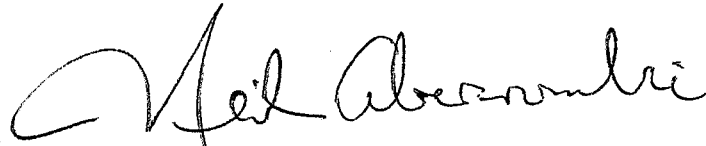
15 (B) Any action by the State to enforce its rights
16 with respect to the claim is commenced within six
17 years of the State's submission of the claim."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.

S.B. NO. 2798
S.D. 1
H.D. 1

APPROVED this 30 day of APR, 2012



NEIL ABERNETHY
GOVERNOR OF THE STATE OF HAWAII