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# 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 enacted as Act 103, in 2009 and codified in chapter 431L, Hawaii  
9 Revised Statutes.

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

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

1 department of human services a listing of their members on a  
2 quarterly basis. Quarterly reports will allow the department to  
3 determine on a timely basis the eligibility of persons who apply  
4 for medicaid and to determine the continuing eligibility for  
5 persons receiving health care insurance through the medicaid  
6 program.

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

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

1           The purpose of this bill is to require all commercial  
2 health care insurers operating in Hawaii to share with the  
3 department of human services, on a timely basis, a listing of  
4 their members for medicaid eligibility determination. This will  
5 improve medicaid program integrity and ensure that medicaid is  
6 the payor of last resort and that funding for the medicaid  
7 program is used to provide health insurance coverage to those  
8 who really need it.

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

11           " [†] §431L-2.5 [†] **Insurer requirements.** Any health insurer  
12 as identified in section 431L-1 shall:

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

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- 1        (2) Provide to the State a quarterly report listing its  
2        members for a cross-reference check of prospective and  
3        current medicaid beneficiaries. Minimum data will be  
4        required to ensure validity of matching and may  
5        include first and last name, date of birth, and social  
6        security number. The data fields and electronic  
7        format of the member listing shall be determined by  
8        the department of human services;
- 9        [~~2~~] (3) Accept the State's right of recovery and the  
10       assignment to the State of any right of an individual  
11       or other entity to payment from the party for a health  
12       care item or service for which payment has been made  
13       for medical assistance under Title 42 United States  
14       Code section 1396a (section 1902 of the Social  
15       Security Act);
- 16       [~~3~~] (4) Respond to any inquiry by the State regarding a  
17       claim for payment for any health care item or service  
18       that is submitted not later than three years after the  
19       date of the provision of the health care item or  
20       service; and
- 21       [~~4~~] (5) Agree not to deny a claim submitted by the State  
22       solely on the basis of the date of submission of the  
23       claim, the type or format of the claim form, or a

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1 failure to present proper documentation at the point-  
2 of-sale that is the basis of the claim, if:

3 (A) The claim is submitted by the State within the  
4 three-year period beginning on the date on which  
5 the health care item or service was furnished;  
6 and

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

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 July 1, 2012.

13  
14 INTRODUCED BY: Calvin K. Soy

15 BY REQUEST  
16 JAN 23 2012

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**Report Title:**

Insurer Requirements

**Description:**

Requires all commercial health care insurers operating in Hawaii to share with the Department of Human Services, a listing of their members for medicaid eligibility determination.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO INSURER REQUIREMENTS.

PURPOSE: The purpose of this bill is to require all commercial health insurers operating in Hawaii to share with the Department of Human Services, lists of their members on a quarterly basis.

MEANS: Amend section 431L-2.5, Hawaii Revised Statutes.

JUSTIFICATION: When Congress passed the Deficit Reduction Act of 2005, P.L. 109-171, it made a number of amendments to the Social Security Act intended to strengthen states' ability to identify and collect from liable third party payors that are legally responsible to pay claims primary to Medicaid.

To ensure the State's compliance with the requirements of P.L. 109-171, the Legislature passed Senate Bill No. 917, enacted as Act 103, in 2009 and codified in chapter 431L, Hawaii Revised Statutes.

The federal and State statutes require that Medicaid be the payor of last resort for health insurance. To meet this obligation, the Department of Human Services, as the state Medicaid agency, requires information on Medicaid recipients who also have commercial health insurance.

Section 431L-2.5, Hawaii Revised Statutes, requires the health care insurer to share information on an individual basis at the State's request. This bill will require all commercial health care insurers operating in Hawaii to also share with the Department of Human Services a listing of their members on a quarterly basis.

Quarterly reports will allow the Department to determine on a timely basis, the eligibility of persons who apply for Medicaid and to determine the continuing eligibility for persons receiving health care insurance through the Medicaid program.

Medicaid allows passive renewal and self-declaration to facilitate eligibility, which makes it difficult for the department to determine when a recipient's eligibility status has changed because of employment, increased income, or being provided health coverage under the Prepaid Health Care Act.

In the current economic climate of decreased state revenues and the unfortunate necessity of reducing medical assistance benefits, identifying areas to decrease expenditures with minimal impact on the public becomes increasingly important. The Senate Committee on Ways and Means stated in Standing Committee Report No. 3033 that "the State's economic difficulties threaten the provision of human services under many state programs. Your Committee finds that, despite budget cuts and realignments, it is important to maintain the level of services that are provided to the neediest populations in the State."

Impact on the public: This will create a new reporting requirement for commercial health plans.

Impact on the department and other agencies: The Department of Human Services will be able to determine Medicaid eligibility on a timely basis. This will improve Medicaid program integrity and ensure that Medicaid is the payor of last resort and that funding for the medicaid program is used to provide health insurance coverage to those who really need it.



GENERAL FUND: Current capitation rates for medicaid enrollees are \$218.20 per member per month for the QUEST program and \$1,313.28 for the QUEST Expanded Access program. Savings will depend on how many are found to be not eligible for Medicaid.

The current federal medical assistance percentage (federal matching) is:

51.79 percent for Medicaid; 66.25 percent for SCHIP until 9/30/11.

50.48 percent for Medicaid; 65.34 percent for SCHIP until 9/30/12.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HMS 401.

OTHER AFFECTED  
AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: July 1, 2012.