



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1295

June 25, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

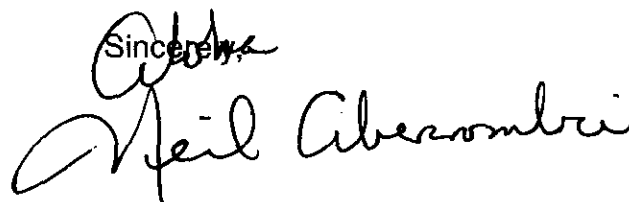
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 25, 2013, the following bill was signed into law:

HB848 HD2 SD1 CD1

RELATING TO HEALTH INSURANCE
ACT 192 (13)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 25 2013

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

ACT 192

H.B. NO. 848
H.D. 2
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1 SECTION 1. The legislature finds that the federal Patient
2 Protection and Affordable Care Act, P.L. 111-148 (Affordable
3 Care Act), authorizes each state to define "small employer" for
4 the purposes of the Affordable Care Act.

5 The legislature further finds that the Affordable Care Act
6 includes or references the Public Health Service Act and the
7 Health Insurance Portability and Accountability Act of 1996. To
8 ensure compliance with relevant federal laws, it is necessary to
9 specify that the definition of "small employer" in section
10 431:2-201.5, Hawaii Revised Statutes, applies to the Public
11 Health Service Act, the Health Insurance Portability and
12 Accountability Act of 1996, and all provisions of the Affordable
13 Care Act, including but not limited to Affordable Care Act
14 provisions governing eligibility for the small business
15 exchange; essential health benefits; actuarial valuation; age
16 rating; risk pool designation; risk adjustment, risk corridors,
17 and reinsurance; and the Hawaii health connector's web portal.

HB848 CD1 HMS 2013-3537



1 The legislature further finds that the Affordable Care Act
2 requires states to establish their own standards for provider
3 network adequacy. Currently, there are multiple agencies that
4 apply network adequacy standards to health insurers.
5 Establishing a uniform network adequacy standard for all health
6 insurers doing business in Hawaii will assure consumers that
7 health care provider networks and access to care will remain
8 consistent.

9 The purpose of this Act is to ensure Hawaii's insurance
10 laws are in compliance with federal health insurance laws by:

- 11 (1) Creating a uniform network adequacy standard to be
12 applied to all health insurers doing business in the
13 State; and
14 (2) Clarifying the existing definition of "small employer"
15 under section 431:2-201.5, Hawaii Revised Statutes, to
16 ensure the definition of "small employer" is
17 applicable to the implementation of all provisions of
18 the Affordable Care Act in Hawaii.

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:



1 "CHAPTER

2 HEALTH CARE PROVIDER NETWORK ADEQUACY

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

5 "Commissioner" means the insurance commissioner of the
6 State.

7 "Managed care plan" means any plan that meets the
8 definition of managed care plan under section 432E-1.

9 § -2 Health care provider network adequacy. (a) On or
10 before January 1 of each calendar year, each managed care plan
11 shall demonstrate the adequacy of its provider network to the
12 commissioner. A provider network shall be considered adequate
13 if it provides access to sufficient numbers and types of
14 providers to ensure that all covered services will be accessible
15 without unreasonable delay, after taking into consideration
16 geography. The commissioner shall also consider any applicable
17 federal standards on network adequacy. A certification from a
18 national accreditation organization shall create a rebuttable
19 presumption that the network of a managed care plan is adequate.
20 This presumption may be rebutted by evidence submitted to, or
21 collected by, the commissioner.



1 (b) A managed care plan that does not have a certification
2 from a national accreditation organization may submit to the
3 commissioner a plan to become accredited by a national
4 accreditation organization within a period of two years if the
5 managed care plan has provided sufficient evidence that its
6 network is reasonably adequate at the time of submission of the
7 plan. The commissioner shall also consider any applicable
8 federal standards on network adequacy. The commissioner may
9 extend the period of time for accreditation.

10 (c) The commissioner shall approve or disapprove a managed
11 care plan's annual filing on network adequacy. If the
12 commissioner deems the filing incomplete, additional information
13 and supporting documentation may be requested. A managed care
14 plan shall have sixty days to appeal an adverse decision by the
15 commissioner in an administrative hearing pursuant to chapter
16 91.

17 (d) To enable the commissioner to determine the network
18 adequacy for qualified health plans to be listed with the Hawaii
19 health connector under section 435H- , the commissioner may
20 request that a managed care plan demonstrate the adequacy of its



1 provider network at the time that it files its health plan
2 benefit document with the commissioner.

3 (e) This section shall apply to any managed care plan
4 qualified as a prepaid health care plan pursuant to chapter
5 393."

6 SECTION 3. Chapter 435H, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§435H- Network adequacy. The commissioner shall
10 provide the Hawaii health connector with a list of qualified
11 health plans that meet network adequacy standards as determined
12 by the commissioner."

13 SECTION 4. Section 431:2-201.5, Hawaii Revised Statutes,
14 is amended by amending subsection (b) to read as follows:

15 "(b) The following definitions shall be used when applying
16 Title 42 United States Code section 300gg, et seq.:

17 "Employee" means an employee who works on a full-time basis
18 with a normal workweek of twenty hours or more.

19 "Group health issuer" means all persons offering health
20 insurance coverage to any group or association, but shall not
21 include those persons offering benefits exempted from Title I of



1 the Health Insurance Portability and Accountability Act of 1996,
2 P.L. 104-191, under sections 732(c) and 733(c) of Title I of the
3 Employee Retirement Income Security Act of 1974 and sections
4 2747 and 2791(c) of the Public Health Service Act.

5 "Qualifying event" means the date of issuance of a general
6 excise tax license, the loss of a job, a reduction in hours of
7 work, or the exhaustion of the federal Consolidated Omnibus
8 Budget Reconstruction Act continuation coverage that results in
9 a loss of health care coverage.

10 "Self-employed individual" means a person operating the
11 person's own business, whether as a sole proprietorship or in
12 any other legally recognized manner in which a person may
13 operate the person's own business, who has a general excise tax
14 license for that business, and who is registered or licensed by
15 the department of commerce and consumer affairs for that
16 business.

17 "Small employer" means, in connection with a group health
18 plan with respect to a calendar year and a plan year, an
19 employer who ~~[employs between]~~ employed an average of at least
20 one ~~[and no]~~ but no more than fifty employees~~[+]~~ on business



1 days during the preceding calendar year and who employs at least
2 one employee on the first day of the plan year."

3 SECTION 5. Section 432E-3, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§432E-3 Access to services. A managed care plan shall~~
6 ~~demonstrate to the commissioner upon request that its plan:~~

- 7 ~~(1) Makes benefits available and accessible to each~~
8 ~~enrollee electing the managed care plan in the defined~~
9 ~~service area with reasonable promptness and in a~~
10 ~~manner which promotes continuity in the provision of~~
11 ~~health care services;~~
- 12 ~~(2) Provides access to sufficient numbers and types of~~
13 ~~providers to ensure that all covered services will be~~
14 ~~accessible without unreasonable delay;~~
- 15 ~~(3) When medically necessary, provides health care~~
16 ~~services twenty four hours a day, seven days a week;~~
- 17 ~~(4) Provides a reasonable choice of qualified providers of~~
18 ~~women's health services such as gynecologists,~~
19 ~~obstetricians, certified nurse midwives, and advanced~~
20 ~~practice nurses to provide preventive and routine~~
21 ~~women's health care services;~~



- 1 ~~(5) Provides payment or reimbursement for adequately~~
- 2 ~~documented emergency services as provided in this~~
- 3 ~~chapter; and~~
- 4 ~~(6) Allows standing referrals to specialists capable of~~
- 5 ~~providing and coordinating primary and specialty care~~
- 6 ~~for an enrollee's life-threatening, chronic,~~
- 7 ~~degenerative, or disabling disease or condition."]~~

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act, upon its approval, shall take effect
11 on July 1, 2013; provided that the amendments made to section
12 431:2-201.5, Hawaii Revised Statutes, by this Act shall not be
13 repealed when that section is reenacted on July 1, 2013, by
14 section 3 of Act 120, Session Laws of Hawaii 2008, as amended by
15 section 14 of Act 11, Session Laws of Hawaii 2009.

APPROVED this 25 day of JUN, 2013



GOVERNOR OF THE STATE OF HAWAII

