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# 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.



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;
- 14           (2) Reaffirming the existing definition of "small  
15                 employer" under section 431:2-201.5, Hawaii Revised  
16                 Statutes, to ensure the definition of "small employer"  
17                 is applicable to the implementation of all provisions  
18                 of the Affordable Care Act in Hawaii; and
- 19           (3) Applying licensing requirements for insurance  
20                 producers to health maintenance organizations and  
21                 mutual benefit societies.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 HEALTH CARE PROVIDER NETWORK ADEQUACY

6 § -1 Definitions. As used in this chapter, unless the  
7 context otherwise requires:

8 "Commissioner" means the insurance commissioner of the  
9 State.

10 "Managed care plans" means any plan that meets the  
11 definition of managed care plan under section 432E-1.

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



1 This presumption may be rebutted by evidence submitted to, or  
2 collected by, the commissioner.

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

13 (c) The commissioner shall approve or disapprove a managed  
14 care plan's annual filing on network adequacy. If the  
15 commissioner deems the filing incomplete, additional information  
16 and supporting documentation may be requested. A managed care  
17 plan shall have sixty days to appeal an adverse decision by the  
18 commissioner in an administrative hearing pursuant to chapter  
19 91.

20 (d) To enable the commissioner to determine the network  
21 adequacy for qualified health plans to be listed with the Hawaii  
22 health connector under section 435H- , the commissioner may



1 request that a managed care plan demonstrate the adequacy of its  
2 provider network at the time that it files its health plan  
3 benefit document with the commissioner.

4 (e) This section shall apply to managed care plans  
5 qualified as prepaid health care plans pursuant to chapter 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  
22 the Health Insurance Portability and Accountability Act of 1996,



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

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

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

16 "Small employer" means, in connection with a group health  
17 plan with respect to a calendar year and a plan year, an  
18 employer who ~~[employs between]~~ employed an average of at least  
19 one ~~[and no]~~ but no more than fifty employees~~[-]~~ on business  
20 days during the preceding calendar year and who employs at least  
21 one employee on the first day of the plan year."



1 SECTION 5. Section 432:1-102, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Article 2, article 2D, parts II and IV of article 3,  
4 article 6, part III of article 7, article 9A, article 13,  
5 article 14G, and article 15 of chapter 431, sections 431:3-301,  
6 431:3-302, 431:3-303, 431:3-304, and 431:3-305, and the powers  
7 granted by those provisions to the commissioner, shall apply to  
8 managed care plans, health maintenance organizations, or medical  
9 indemnity or hospital service associations that are owned or  
10 controlled by mutual benefit societies so long as the  
11 application in any particular case is in compliance with and is  
12 not preempted by applicable federal statutes and regulations."

13 SECTION 6. Section 432D-19, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) Article 2, article 2D, part IV of article 3, article  
16 6, part III of article 7, article 9A, article 13, article 14G,  
17 and article 15 of chapter 431, and sections 431:3-301 and 431:3-  
18 302, and the powers granted by those provisions to the  
19 commissioner shall apply to health maintenance organizations, so  
20 long as the application in any particular case is in compliance  
21 with and is not preempted by applicable federal statutes and  
22 regulations."



1 SECTION 7. Section 432E-3, Hawaii Revised Statutes, is  
2 repealed.

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

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





1       ~~(6) Allows standing referrals to specialists capable of~~  
2           ~~providing and coordinating primary and specialty care~~  
3           ~~for an enrollee's life threatening, chronic,~~  
4           ~~degenerative, or disabling disease or condition." ]~~

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

7           SECTION 9. This Act, upon its approval, shall take effect  
8 on July 1, 2050; provided that the amendment made to section  
9 431:2-201.5, Hawaii Revised Statutes, by this Act shall not be  
10 repealed when that section is reenacted on July 1, 2013, by  
11 section 3 of Act 120, Session Laws of Hawaii 2008, as amended by  
12 section 14 of Act 11, Session Laws of Hawaii 2009.



**Report Title:**

Health Insurance; Network Adequacy; Small Employer; Insurance Producers

**Description:**

Creates a uniform network adequacy standard to be applied to all health insurers doing business in the State. For consistency with federal health insurance laws, defines "small employer" in the Hawaii insurance code to consist of employers with fifty employees or less. Applies licensing requirements for insurance producers to health maintenance organizations and mutual benefit societies. Effective July 1, 2050. (SD1)

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

