
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The purpose of this Act is to facilitate the
2 establishment of health savings accounts in the State and
3 require employers to make contributions to health savings
4 accounts, which receive favorable tax treatment in that the
5 contributions may be accumulated over the years, or distributed
6 on a tax-free basis, to pay or reimburse qualifying medical
7 expenses.

8 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
9 amended by adding a new section to article 10A to be
10 appropriately designated and to read as follows:

11 "§431:10A- Health savings account program; limitations;
12 definitions. (a) Each group accident and health or sickness
13 insurance policy issued or renewed in this State after July 1,
14 2016, may include an option for a group health savings program.

15 (b) An employer subject to chapter 393 may offer a health
16 savings account program to employees in addition to the group
17 accident and health or sickness insurance policy provided by an



1 insurer. An employer offering a health savings account program
2 shall be subject to the following limitations. The employer
3 shall:

4 (1) Provide the program to employees only as an
5 alternative option to a group accident and health or
6 sickness insurance policy, in which both the program
7 and the group accident and health or sickness
8 insurance policy provide aggregate benefits that are
9 determined pursuant to chapter 393 to be equivalent
10 and meet the qualifications in either subsection 393-
11 7(a) or (b);

12 (2) Make an annual employer contribution to the health
13 savings account of an employee enrolled in the
14 program, and upon enrollment of a new employee that
15 enrolls in the program;

16 (3) Make an employer contribution of an amount equal to or
17 greater than eighty per cent of the annual deductible
18 of a high deductible health plan for self-only
19 coverage and equal to or greater than eighty per cent
20 of the annual deductible of a high deductible health
21 plan for family coverage, with the total annual



- 1 employer contribution not to exceed the maximum
2 contribution amount pursuant to section 223 of the
3 Internal Revenue Code of 1986;
- 4 (4) Contribute the annual amount to the employee's health
5 savings account prior to the first day the employee is
6 covered by the program;
- 7 (5) Increase the contribution amount to an employee's
8 health savings account if an employee's status changes
9 from self-only coverage to family coverage during
10 program;
- 11 (6) Cooperate with the insurer regarding proof of
12 compliance with the limitations for offering a health
13 savings account program to employees;
- 14 (7) Provide the declaration of understanding from the
15 insurer with the program application;
- 16 (8) Provide the certification obtained from the insurer
17 regarding the employer's compliance with the
18 limitations of the program to the insurer; and
- 19 (9) Immediately remove any employee and dependents, if
20 any, from the program and place the employee and
21 dependents, if any, in the group accident and health



1 or sickness insurance policy if the employer knows the
2 program is not in compliance with this section, by
3 notifying the insurer immediately.

4 (c) Every insurer that offers, sells, or renews a group
5 accident and health or sickness insurance policy with an option
6 for a health savings account program shall:

7 (1) Include the employer limitations in this section in
8 any policy, contract, certificate, or agreement,
9 regardless of form;

10 (2) Encourage informed decisions by providing employers a
11 one-page, double-sided declaration of understanding,
12 to be included with any program application that
13 explains in plain and simple language certain terms of
14 the program, including covered services, applicable
15 deductibles, claims processing, and the effective use
16 of the program for favorable tax treatment;

17 (3) Retain the employer's certification as to compliance
18 with the limitations of the program for five years;
19 and

20 (4) Submit to the insurance commissioner, no later than
21 June 30 of each calendar year, a statewide basis



1 report in such form and detail as the insurance
2 commissioner shall prescribe, on the preceding
3 calendar year stating the participation rate, the
4 total dollars contributed by employers, the total
5 dollars contributed by employees and the disbursement
6 of the deposits as a percentage of the deposits in the
7 health savings accounts.

8 (d) Unused funds in a health savings account shall become
9 the property of the health savings account holder at the end of
10 a taxable year.

11 (e) Notwithstanding any provision of law to the contrary,
12 the rights of an employee or dependent, if any, of a health
13 savings account to hold or to receive moneys paid into or out
14 of, the assets of, and the income of the health savings account:

15 (1) Shall be exempt from creditor process;

16 (2) Shall not be liable to attachment, garnishment, or
17 other process; and

18 (3) Shall not be seized, taken, appropriated, or applied
19 by any legal or equitable process or operation of law
20 to pay any debt or liability of the employee or
21 beneficiary of the account.



1 (f) If this section or any provision of this section
2 conflicts at any time with any federal law, then the federal law
3 shall prevail and this article or the relevant provisions of
4 this section shall become ineffective and invalid. The
5 ineffectiveness or invalidity of this section or any of its
6 provisions shall not affect any other provisions or applications
7 of this section, which shall be given effect without the invalid
8 provision or application, and to this end, the provisions of
9 this section are severable.

10 (g) As used in this section, unless the context clearly
11 requires otherwise:

12 "Family coverage" shall have the same meaning as defined in
13 section 223 of the Internal Revenue Code of 1986.

14 "Health savings account" means a health savings account
15 authorized under section 223 of the Internal Revenue Code of
16 1986.

17 "Health savings account program" or "program" means a high
18 deductible health plan with a health savings account that has
19 been approved pursuant to chapter 393 to be offered, sold or
20 renewed with an employer-sponsored plan to an employer subject
21 to chapter 393.



1 "High deductible health plan" shall have the same meaning
2 as defined in section 223 of the Internal Revenue Code of 1986.

3 "Self-only coverage" means coverage only for the employee
4 and not for dependents."

5 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
6 amended by adding a new section to article 1 to be appropriately
7 designated and to read as follows:

8 "§432:1- Health savings account program; limitations;
9 definitions. (a) Each group hospital and medical service plan
10 contract issued or renewed in this State after July 1, 2016, may
11 include an option for a group health savings program.

12 (b) An employer subject to chapter 393 may offer a health
13 savings account program to employees in addition to the group
14 hospital and medical service plan contract provided by a mutual
15 benefit society. An employer offering a health savings account
16 program shall be subject to the following limitations. The
17 employer shall:

18 (1) Provide the program to employees only as an
19 alternative option to a group hospital and medical
20 service plan contract, in which both the program and
21 the group hospital and medical service plan contract



- 1 provide aggregate benefits that are determined
2 pursuant to chapter 393 to be equivalent and meet the
3 qualifications in either subsection 393-7(a) or (b);
- 4 (2) Make an annual employer contribution to the health
5 savings account of an employee enrolled in the
6 program, and upon enrollment of a new employee that
7 enrolls in the program;
- 8 (3) Make an employer contribution of an amount equal to or
9 greater than eighty per cent of the annual deductible
10 of a high deductible health plan for self-only
11 coverage and equal to or greater than eighty per cent
12 of the annual deductible of a high deductible health
13 plan for family coverage, with the total annual
14 employer contribution not to exceed the maximum
15 contribution amount pursuant to section 223 of the
16 Internal Revenue Code of 1986;
- 17 (4) Contribute the annual amount to the employee's health
18 savings account prior to the first day the employee is
19 covered by the program;
- 20 (5) Increase the contribution amount to an employee's
21 health savings account if an employee's status changes



- 1 from self-only coverage to family coverage during
2 program;
- 3 (6) Cooperate with the mutual benefit society regarding
4 proof of compliance with the limitations for offering
5 a health savings account program to employees;
- 6 (7) Provide the declaration of understanding from the
7 mutual benefit society with the program application;
- 8 (8) Provide the one-page, double-sided declaration of
9 understanding from the mutual benefit society with the
10 program application;
- 11 (9) Provide the certification obtained from the mutual
12 benefit society as to the employer's compliance with
13 the limitations of the program to the mutual benefit
14 society; and
- 15 (10) Immediately remove any employee and dependents, if
16 any, from the program and place the employee and
17 dependents, if any, in the group hospital and medical
18 service plan contract if the employer knows the
19 program is not in compliance with this section, by
20 notifying the mutual benefit society immediately.



1 (c) Every mutual benefit society that offers, sells, or
2 renews a group hospital and medical service plan contract with
3 an option for a health savings account program shall:

4 (1) Include the employer limitations in this section in
5 any policy, contract, certificate, or agreement,
6 regardless of form;

7 (2) Encourage informed decisions by providing employers a
8 one-page, double-sided declaration of understanding,
9 to be included with any program application that
10 explains in plain and simple language certain terms of
11 the program, including covered services, applicable
12 deductibles, claims processing, and the effective use
13 of the program for favorable tax treatment;

14 (3) Retain the employer's certification as to compliance
15 with the limitations of the program for five years;
16 and

17 (4) Submit to the insurance commissioner, no later than
18 June 30 of each calendar year, a statewide basis
19 report in such form and detail as the insurance
20 commissioner shall prescribe, on the preceding
21 calendar year stating the participation rate, the



1 total dollars contributed by employers, the total
2 dollars contributed by employees and the disbursement
3 of the deposits as a percentage of the deposits in the
4 health savings accounts.

5 (d) Unused funds in a health savings account shall become
6 the property of the health savings account holder at the end of
7 a taxable year.

8 (e) Notwithstanding any provision of law to the contrary,
9 the rights of an employee or dependent, if any, of a health
10 savings account to hold or to receive moneys paid into or out
11 of, the assets of, and the income of the health savings account:

12 (1) Shall be exempt from creditor process;

13 (2) Shall not be liable to attachment, garnishment, or
14 other process; and

15 (3) Shall not be seized, taken, appropriated, or applied
16 by any legal or equitable process or operation of law
17 to pay any debt or liability of the employee or
18 beneficiary of the account.

19 (f) If this section or any provision of this section
20 conflicts at any time with any federal law, then the federal law
21 shall prevail and this section or the relevant provisions of



1 this section shall become ineffective and invalid. The
2 ineffectiveness or invalidity of this section or any of its
3 provisions shall not affect any other provisions or applications
4 of this section, which shall be given effect without the invalid
5 provision or application, and to this end, the provisions of
6 this section are severable.

7 (g) As used in this section, unless the context clearly
8 requires otherwise:

9 "Family coverage" shall have the same meaning as defined in
10 section 223 of the Internal Revenue Code of 1986.

11 "Health savings account" means a health savings account
12 authorized under section 223 of the Internal Revenue Code of
13 1986.

14 "Health savings account program" or "program" means a high
15 deductible health plan with a health savings account that has
16 been approved pursuant to chapter 393 to be offered, sold or
17 renewed with an employer-sponsored plan to an employer subject
18 to chapter 393.

19 "High deductible health plan" shall have the same meaning
20 as defined in section 223 of the Internal Revenue Code of 1986.



1 "Self-only coverage" means coverage only for the employee
2 and not for dependents."

3 SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§432D-23 Required provisions and benefits.

6 Notwithstanding any provision of law to the contrary, each
7 policy, contract, plan, or agreement issued in the State after
8 January 1, 1995, by health maintenance organizations pursuant to
9 this chapter, shall include benefits provided in sections
10 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
11 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
12 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
13 431:10A-133, [and] 431:10A-140, 431:10A- if a health savings
14 account is provided, and chapter 431M."

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. Notwithstanding section 432D-23, Hawaii Revised
18 Statutes, the group health savings account program to be
19 provided by a health maintenance organization under section 4 of
20 this Act shall apply to all group policies, contracts, plans, or





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1 agreements issued or renewed in this State by a health
2 maintenance organization after July 1, 2016.

3 SECTION 7. This Act shall take effect on July 1, 2016.

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INTRODUCED BY: _____

JAN 26 2016



H.B. NO. 2539

Report Title:

Health Savings Account Program; Insurance

Description:

Facilitates the establishment of health savings accounts in Hawaii.

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

