
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 health savings account
15 program.

16 (b) An employer subject to chapter 393 may offer a health
17 savings account program to employees in addition to the group



1 accident and health or sickness insurance policy provided by an
2 insurer. An employer offering a health savings account program
3 shall be subject to the following limitations. The employer
4 shall:

- 5 (1) Provide the program to employees only as an
6 alternative option to a group accident and health or
7 sickness insurance policy, in which both the program
8 and the group accident and health or sickness
9 insurance policy provide aggregate benefits that are
10 determined pursuant to chapter 393 to be equivalent
11 and meet the qualifications in either section 393-7(a)
12 or (b);
- 13 (2) Make an annual employer contribution to the health
14 savings account of an employee enrolled in the
15 program, and upon enrollment of a new employee that
16 enrolls in the program;
- 17 (3) Make an employer contribution of an amount equal to or
18 greater than eighty per cent of the annual deductible
19 of a high deductible health plan for self-only
20 coverage and equal to or greater than eighty per cent
21 of the annual deductible of a high deductible health



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



1 (9) Immediately remove any employee and dependents, if
2 any, from the program and place the employee and
3 dependents, if any, in the group accident and health
4 or sickness insurance policy if the employer knows the
5 program is not in compliance with this section, by
6 notifying the insurer immediately.

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

10 (1) Include the employer limitations in this section in
11 any policy, contract, certificate, or agreement,
12 regardless of form; and

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



1 (d) Unused funds in a health savings account shall become
2 the property of the health savings account holder at the end of
3 a taxable year.

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

8 (1) Shall be exempt from creditor process;

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

11 (3) Shall not be seized, taken, appropriated, or applied
12 by any legal or equitable process or operation of law
13 to pay any debt or liability of the employee or
14 beneficiary of the account.

15 (f) If this section or any provision of this section
16 conflicts at any time with any federal law, then the federal law
17 shall prevail and this section or the relevant provisions of
18 this section shall become ineffective and invalid. The
19 ineffectiveness or invalidity of this section or any of its
20 provisions shall not affect any other provisions or applications
21 of this section, which shall be given effect without the invalid



1 provision or application, and to this end, the provisions of
2 this section are severable.

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

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

7 "Health savings account" means a health savings account
8 authorized under section 223 of the Internal Revenue Code of
9 1986.

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

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

17 "Self-only coverage" means coverage only for the employee
18 and not for dependents."

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



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

5 (b) An employer subject to chapter 393 may offer a health
 6 savings account program to employees in addition to the group
 7 hospital and medical service plan contract provided by a mutual
 8 benefit society. An employer offering a health savings account
 9 program shall be subject to the following limitations. The
 10 employer shall:

11 (1) Provide the program to employees only as an
 12 alternative option to a group hospital and medical
 13 service plan contract, in which both the program and
 14 the group hospital and medical service plan contract
 15 provide aggregate benefits that are determined
 16 pursuant to chapter 393 to be equivalent and meet the
 17 qualifications in either section 393-7(a) or (b);

18 (2) Make an annual employer contribution to the health
 19 savings account of an employee enrolled in the
 20 program, and upon enrollment of a new employee that
 21 enrolls in the program;



- 1 (3) Make an employer contribution of an amount equal to or
2 greater than eighty per cent of the annual deductible
3 of a high deductible health plan for self-only
4 coverage or equal to or greater than eighty per cent
5 of the annual deductible of a high deductible health
6 plan for family coverage, as applicable, with the
7 total annual employer contribution not to exceed the
8 maximum contribution amount pursuant to section 223 of
9 the Internal Revenue Code of 1986;
- 10 (4) Contribute the annual amount to the employee's health
11 savings account prior to the first day the employee is
12 covered by the program;
- 13 (5) Increase the contribution amount to an employee's
14 health savings account if an employee's status changes
15 from self-only coverage to family coverage during the
16 employee's enrollment in the program;
- 17 (6) Cooperate with the department of labor and industrial
18 relations regarding proof of compliance with the
19 limitations for offering a health savings account
20 program to employees;



- 1 (7) Provide the declaration of understanding from the
2 mutual benefit society with the program application;
- 3 (8) Provide the certification obtained from the department
4 of labor and industrial relations as to the employer's
5 compliance with the limitations of the program to the
6 mutual benefit society; and
- 7 (9) Immediately remove any employee and dependents, if
8 any, from the program and place the employee and
9 dependents, if any, in the group hospital and medical
10 service plan contract if the employer knows the
11 program is not in compliance with this section, by
12 notifying the mutual benefit society immediately.
- 13 (c) Every mutual benefit society that offers, sells, or
14 renews a group hospital and medical service plan contract with
15 an option for a health savings account program shall:
- 16 (1) Include the employer limitations in this section in
17 any policy, contract, certificate, or agreement,
18 regardless of form; and
- 19 (2) Encourage informed decisions by providing employers a
20 one-page, double-sided declaration of understanding,
21 to be included with any program application that



1 explains in plain and simple language certain terms of
2 the program, including covered services, applicable
3 deductibles, claims processing, and the effective use
4 of the program for favorable tax treatment.

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, to hold or to
10 receive moneys paid into or out of a health savings account, and
11 the assets and income of a 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, and 431:10A-_____, and chapter
14 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 health savings account program to be provided by a
19 health maintenance organization under section 4 of this Act
20 shall apply to all group policies, contracts, plans, or



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, 2070.



Report Title:

Health Savings Account Program; Insurance

Description:

Authorizes the establishment of health savings accounts in conjunction with group accident and health or sickness insurance policies, group hospital and medical service plan contracts, and health maintenance organization plans in the State. (HB2539 HD2)

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

