

S.B. NO. 1095

JAN 28 2015

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding to article 14G a new section to be
3 appropriately designated and to read as follows:

4 "§431:14G- Rerating. No person, business, or entity
5 may change or rerate any rate approved by the commissioner in
6 any subsequent transfer, sale, resale, or pass through of health
7 insurance issued by a managed care plan."

8 SECTION 2. Chapter 432, Hawaii Revised Statutes, is
9 amended by adding to article 1 a new section to be appropriately
10 designated and to read as follows:

11 "§432:1- Suspension, revocation, or denial of
12 certificate of authority. (a) Any certificate of authority
13 issued under this chapter may be suspended or revoked, and any
14 application for a certificate of authority may be denied, if the
15 commissioner finds that any of the conditions listed below
16 exists:

- 1 (1) The mutual benefit society is operating significantly
2 in contravention of its basic organizational document
3 or in a manner contrary to that described in any other
4 information submitted under section 432:1-301, unless
5 amendments to the submissions have been filed with and
6 approved by the commissioner;
- 7 (2) The mutual benefit society is no longer financially
8 responsible and may reasonably be expected to be
9 unable to meet its obligations to its members and
10 beneficiaries or prospective members;
- 11 (3) The mutual benefit society has failed to correct,
12 within the time prescribed by subsection (c), any
13 deficiency occurring due to the mutual benefit
14 society's prescribed minimum net worth being impaired;
- 15 (4) The mutual benefit society, or any person on its
16 behalf, has advertised or merchandised its services in
17 an untrue, misrepresentative, misleading, deceptive,
18 or unfair manner;
- 19 (5) The continued operation of the mutual benefit society
20 would be hazardous to its members; or
- 21 (6) The mutual benefit society has otherwise failed
22 substantially to comply with this chapter.

1 (b) In addition to, or in lieu of, suspension or
2 revocation of a certificate of authority pursuant to this
3 section, the commissioner may levy an administrative fine upon
4 the mutual benefit society in an amount not less than \$500 and
5 not more than \$50,000 pursuant to section 431:3-221.

6 (c) The following shall pertain when insufficient net
7 worth is maintained:

8 (1) Whenever the commissioner finds that the net worth
9 maintained by any mutual benefit society subject to
10 this chapter is less than the minimum net worth
11 required, the commissioner shall give written notice
12 to the mutual benefit society of the amount of the
13 deficiency and require the mutual benefit society to:
14 (A) File with the commissioner a plan for correction
15 of the deficiency acceptable to the commissioner;
16 and
17 (B) Correct the deficiency within a reasonable time,
18 not to exceed sixty days, unless an extension of
19 time, not to exceed sixty additional days, is
20 granted by the commissioner. The deficiency
21 shall be deemed an impairment, and failure to
22 correct the impairment in the prescribed time

1 shall be grounds for suspension or revocation of
2 the certificate of authority or for placing the
3 mutual benefit society in conservation,
4 rehabilitation, or liquidation; and

5 (2) Unless allowed by the commissioner, no mutual benefit
6 society or person acting on its behalf, directly or
7 indirectly, may renew, issue, or deliver any
8 certificate, agreement, or contract of coverage in
9 this State, for which a premium is charged or
10 collected, when the mutual benefit society writing the
11 coverage is impaired, and the fact of the impairment
12 is known to the mutual benefit society or to the
13 person. The existence of an impairment, however,
14 shall not prevent the issuance or renewal of a
15 certificate, agreement, or contract when the member
16 exercises an option granted under the plan to obtain a
17 new, renewed, or converted coverage.

18 (d) A certificate of authority shall be suspended or
19 revoked or an application for a certificate of authority denied,
20 or an administrative fine imposed, only after compliance with
21 the requirements of this section.

- 1 (1) Suspension or revocation of a certificate of
2 authority, denial of an application, or imposition of
3 an administrative fine pursuant to this section shall
4 be by written order and shall be sent to the mutual
5 benefit society or applicant by certified or
6 registered mail. The written order shall state the
7 grounds, charges, or conduct on which suspension,
8 revocation, denial, or administrative penalty is
9 based. The mutual benefit society or applicant, in
10 writing, may request a hearing pursuant to section
11 431:2-308; and
- 12 (2) If the mutual benefit society or applicant requests a
13 hearing pursuant to this section, the commissioner
14 shall issue a written notice of hearing and send it to
15 the mutual benefit society or applicant by certified
16 or registered mail and to the director of labor and
17 industrial relations stating:
- 18 (A) A specific time for the hearing, which may not be
19 less than twenty nor more than thirty days after
20 mailing of the notice of hearing; and
- 21 (B) A specific place for the hearing.
- 22 (e) When the certificate of authority of a mutual benefit

1 society is suspended, the mutual benefit society shall not,
2 during the period of the suspension, enroll any additional
3 members except newborn children or other newly acquired
4 dependents of existing members, and shall not engage in any
5 advertising or solicitation whatsoever.

6 (f) When the certificate of authority of a mutual benefit
7 society is revoked, the society, immediately following the
8 effective date of the order of revocation, shall proceed to wind
9 up its affairs, and shall conduct no further business except as
10 may be essential to the orderly conclusion of the affairs of the
11 society. It shall engage in no further advertising or
12 solicitation whatsoever. The commissioner, by written order,
13 may permit further operation of the society as the commissioner
14 may find to be in the best interest of the members, to the end
15 that members will be afforded the greatest practical opportunity
16 to obtain continuing coverage and benefits."

17 SECTION 3. Chapter 431M, Hawaii Revised Statutes, is
18 amended by amending its title to read as follows:

19 "MENTAL HEALTH AND ALCOHOL AND [~~DRUG ABUSE~~] SUBSTANCE USE
20 DISORDER TREATMENT INSURANCE BENEFITS"

21 SECTION 4. Section 431M-1, Hawaii Revised Statutes, is
22 amended as follows:

1 (1) By amending the definition of "partial hospitalization
2 services" to read as follows:

3 "Partial hospitalization [services]" means treatment
4 services, including in-hospital treatment services or benefits,
5 provided by a hospital or mental health outpatient facility to
6 patients who, because of their conditions, require more than
7 periodic hourly service. Partial hospitalization [services]
8 shall be prescribed by a physician or psychologist, and may be
9 prescribed by a licensed clinical social worker, marriage and
10 family therapist, licensed mental health counselor, or advanced
11 practice registered nurse in consultation with a physician or
12 psychologist. Partial hospitalization [services require]
13 requires less than twenty-four hours of care and a minimum of
14 three hours in any one day."

15 (2) By repealing the definition of "serious mental
16 illness".

17 [~~"Serious mental illness" means a mental disorder~~
18 ~~consisting of at least one of the following: schizophrenia,~~
19 ~~schizo-affective disorder, bipolar types I and II, obsessive~~
20 ~~compulsive disorder, dissociative disorder, delusional disorder,~~
21 ~~and major depression, as defined in the most recent version of~~
22 ~~the Diagnostic and Statistical Manual of the American~~

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1 ~~Psychiatric Association and which is of sufficient severity to~~
2 ~~result in substantial interference with the activities of daily~~
3 ~~living."]~~

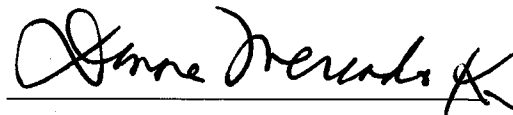
4 SECTION 5. Section 432E-1, Hawaii Revised Statutes, is
5 amended by amending the definition of "emergency services" to
6 read as follows:

7 "Emergency services" means services provided to an
8 enrollee when the enrollee has symptoms of sufficient severity,
9 including severe pain, such that a layperson could reasonably
10 expect, in the absence of medical treatment, to result in
11 placing the enrollee's health or condition in serious jeopardy,
12 serious impairment of bodily functions, serious dysfunction of
13 any bodily organ or part, or death."

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval.

17
18 INTRODUCED BY:



19 BY REQUEST
20

Report Title:

Health Insurance

Description:

Updates title 24 of the Hawaii Revised Statutes relating to health insurance.

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: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO HEALTH INSURANCE.

PURPOSES: To update title 24 of the Hawaii Revised Statutes (HRS), relating to insurance, by:

- (1) Adding a new section to chapter 431, article 14G to explicitly prohibit rereating of rates approved by the Commissioner;
- (2) Adding a new section to chapter 432, article 1 to permit the suspension, revocation, or denial of a mutual benefit society's certificate of authority under certain conditions;
- (3) Amending the title of chapter 431M and the definition of "partial hospitalization services" in section 431M-1 to conform the title and definitions of chapter 431M to existing law;
- (4) Amending the definition of "emergency services" in section 432E-1 to conform state law to the federal Patient Protection and Affordable Care Act, Public Law 111-148 ("PPACA"); and
- (5) Repealing the definition of "serious mental illness" in section 431M-1 to conform the definitions of chapter 431M to existing law.

MEANS: Add a new section to chapter 431, article 14G and to chapter 432, article 1, HRS; amend the title of chapter 431M and sections 431M-1 and 432E-1, HRS; and repeal a definition in section 431M-1, HRS.

JUSTIFICATION:

This bill expressly prohibits rerating of rates approved by the Commissioner, since the health insurance rate regulation statute codified at chapter 431, article 14G, HRS, currently has no such provision.

In addition, this bill provides for the suspension, revocation, or denial of a mutual benefit society's certificate of authority since the mutual benefit society statute, codified at chapter 432, article 1, HRS, currently has no such provision, whereas the health maintenance organization statute, codified at chapter 432D, HRS, does.

This bill also amends the title of chapter 431M, HRS, and amends the definition of "partial hospitalization services" in that chapter. The 2013 legislature revised chapter 431M, HRS, and the term "partial hospitalization services" is no longer in chapter 431M, HRS. Accordingly, this bill uses the term "partial hospitalization," which appears in section 431M-4(b)(3), HRS, to maintain consistency.

This bill repeals the definition of "serious mental illness" in section 431M-1, HRS, as the 2013 legislature revised chapter 431M, HRS, and the term is no longer in chapter 431M, HRS.

Finally, this bill also amends the definition of "emergency services" in section 432E-1, HRS, to conform state law to the PPACA. The PPACA recognizes severe pain as an acute symptom of sufficient severity to be an emergency medical condition. The state's definition, however, does not recognize severe pain as an emergency medical condition, to the detriment of health insurance enrollees who have sought emergency care due to severe pain and who have had insurers deny their claims for benefits.

Impact on the public: This bill would protect the public by giving the Commissioner authority to suspend, revoke, or deny a mutual benefit society's certificate of authority in certain cases. This bill would also make existing law internally consistent and clarify the protections of the PPACA for the public.

Impact on the department and other agencies: This bill should not impact other agencies and would allow the Commissioner to enforce state and federal law for the benefit of the public.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA 106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.