
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 significant
2 benefits of the Hawaii Prepaid Health Care Act, enacted in 1974,
3 are evident in Hawaii's high rate of insured residents, which is
4 among the highest in the nation. Similarly, one of the key
5 purposes of the federal Patient Protection and Affordable Care
6 Act of 2010, as amended (Affordable Care Act), is to lower the
7 uninsured rate by expanding public and private insurance
8 coverage.

9 The Affordable Care Act required the establishment of
10 health insurance exchanges where individuals and small
11 businesses could compare and purchase private insurance plans.
12 However, the viability of state-based health insurance exchanges
13 has been a challenge across the country, particularly in small
14 states with low numbers of uninsured residents.

15 The legislature further finds that due to the small number
16 of uninsured residents in Hawaii, Hawaii has not been able to
17 maintain a financially self-sustaining health insurance



1 exchange. Consequently, the federal Centers for Medicare and
2 Medicaid Services (CMS) found that Hawaii's exchange, the Hawaii
3 Health Connector (Connector), was not financially self-
4 sustainable by January 1, 2015, as required by the Affordable
5 Care Act.

6 Hawaii was faced with losing some of the federal funds for
7 programs under the United States Department of Health and Human
8 Services because the Connector was not compliant with several
9 provisions of the Affordable Care Act. The non-compliance
10 included unresolved information technology issues, a non-
11 integrated eligibility enrollment system, and lack of financial
12 sustainability. To prevent the loss of these funds, CMS
13 initiated discussions with Hawaii's governor to transition
14 Hawaii from a state-based marketplace to a state-based
15 marketplace that utilizes the federal platform for eligibility
16 and enrollment of individuals and families, and a state-
17 maintained small business health options program.

18 The purpose of this Act is to:

19 (1) Authorize the Department of Human Services to develop
20 and administer outreach as required by the Affordable
21 Care Act; and



1 (2) Create the Hawaii health insurance programs within the
2 department of labor and industrial relations, which
3 will conform state law to the Affordable Care Act and
4 enable the State to:

5 (A) Preserve the benefits of the Hawaii Prepaid
6 Health Care Act for Hawaii residents;

7 (B) Ensure a smooth transition from a state-based
8 marketplace to a state-based marketplace using
9 the federal platform for individuals and
10 families; and

11 (C) Develop a system to allow small businesses to
12 continue to take advantage of tax credits
13 afforded by the Affordable Care Act.

14 SECTION 2. Chapter 371, Hawaii Revised Statutes, is
15 amended by adding a new part to be appropriately designated and
16 to read as follows:

17 "PART . HAWAII HEALTH INSURANCE EXCHANGE PROGRAMS

18 §371- Definitions. As used in this part:

19 "Commissioner" means the insurance commissioner.

20 "Department" means the department of labor and industrial
21 relations.



1 "Director" means the director of labor and industrial
2 relations.

3 "Federal act" means the federal Patient Protection and
4 Affordable Care Act, Public Law 111-148, as amended, or
5 regulations or guidance issued under the federal act.

6 "Insurer" means any person or entity that issues a policy
7 of accident and health or sickness insurance subject to article
8 1 of chapter 431, mutual benefit societies under article 1 of
9 chapter 432, health maintenance organizations under chapter
10 432D, and dental carriers under chapter 432G, and any other
11 entity offering or providing accident and health or sickness
12 insurance in this State, except an insurer licensed to offer
13 accident and health or sickness insurance under section
14 431:10A-102.5.

15 **§371- Hawaii health insurance programs; purpose.** (a)
16 There is established in the department a state health insurance
17 exchange, named the Hawaii health insurance programs, pursuant
18 to the federal act. The purpose of the Hawaii health insurance
19 programs is to enable the provision of health insurance to
20 comply with the federal act.



1 (b) The department is authorized to take any action
2 necessary to operate a small business health options program
3 pursuant to the federal act to assist qualified employers and
4 facilitate enrollment of qualified employees into qualified
5 health plans.

6 (c) The commissioner shall determine qualifications for
7 the inclusion of insurers and plans in the state health
8 insurance exchange; provided that all health plans and dental
9 plans that are qualified by the commissioner and certified by
10 the director shall be included in the state exchange.

11 (d) Eligibility appeals under the small business health
12 options program shall comply with the requirements of the
13 federal act and shall not be subject to chapter 91. Decisions
14 shall not be subject to judicial review.

15 **§371- Issuer fees.** The department shall collect fees up
16 to the amount allowed by the federal act, without the necessity
17 of a rule, from each qualified health and dental plan certified
18 by the director and participating in the exchange pursuant to
19 this part from January 1, 2016, to January 1, 2018.



- 1 §371- Affordable Care Act legislative oversight
2 committee. (a) There is established the Affordable Care Act
3 legislative oversight committee.
- 4 (b) The oversight committee shall consist of seven members
5 who shall include:
- 6 (1) The chair of the house standing committee with primary
7 jurisdiction over consumer protection and commerce;
8 (2) The chair of the house standing committee with primary
9 jurisdiction over health;
10 (3) The chair of the house standing committee with primary
11 jurisdiction over finance;
12 (4) The chair of the senate standing committee with
13 primary jurisdiction over commerce, consumer
14 protection, and health;
15 (5) The chair of the senate standing committee with
16 primary jurisdiction over ways and means;
17 (6) One member of the minority party of the house, to be
18 selected by the minority party leader; and
19 (7) One member of the minority party of the senate, to be
20 selected by the minority party leader.



1 (c) The chairs of the house committee on consumer
2 protection and commerce and the senate committee on commerce,
3 consumer protection, and health shall serve as the co-chairs of
4 the committee.

5 (d) The committee shall meet at least annually as agreed
6 upon by the co-chairs.

7 (e) The committee shall make recommendations as needed to
8 the house committee on finance and the senate committee on ways
9 and means.

10 **§371- Oversight; rate regulation.** (a) The commissioner
11 shall retain full regulatory jurisdiction pursuant to the
12 authority granted to the commissioner by chapters 431, 432,
13 432D, and 432G over all insurers and qualified plans and
14 qualified dental plans included in the state health insurance
15 exchange.

16 (b) Rate regulation for qualified plans and qualified
17 dental plans included in the state health insurance exchange
18 shall be pursuant to applicable state and federal law.

19 **§371- Effect on the Prepaid Health Care Act.** Nothing in
20 this part shall in any manner diminish or limit the protections
21 contained in or alter the provisions of chapter 393."



1 SECTION 3. Section 346-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§346-14 Duties generally. Except as otherwise provided
4 by law, the department of human services shall:

- 5 (1) Establish and administer programs and standards, and
6 adopt rules as deemed necessary for all public
7 assistance programs;
- 8 (2) Establish, extend, and strengthen services for the
9 protection and care of abused or neglected children
10 and children in danger of becoming delinquent to make
11 paramount the safety and health of children who have
12 been harmed or are in life circumstances that threaten
13 harm;
- 14 (3) Establish and administer programs, and adopt rules as
15 deemed necessary, for the prevention of domestic and
16 sexual violence and the protection and treatment of
17 victims of domestic and sexual violence;
- 18 (4) Assist in preventing family breakdown;
- 19 (5) Place, or cooperate in placing, abused or neglected
20 children in suitable private homes or institutions and



1 place, or cooperate in placing, children in suitable
2 adoptive homes;

3 (6) Have authority to establish, maintain, and operate
4 receiving homes for the temporary care and custody of
5 abused or neglected children until suitable plans are
6 made for their care; and accept from the police and
7 other agencies, for temporary care and custody, any
8 abused or neglected child until satisfactory plans are
9 made for the child;

10 (7) Administer the medical assistance programs for
11 eligible public welfare and other medically needy
12 individuals by establishing standards, eligibility,
13 and health care participation rules, payment
14 methodologies, reimbursement allowances, systems to
15 monitor recipient and provider compliance, and
16 assuring compliance with federal requirements to
17 maximize federal financial participation;

18 (8) Cooperate with the federal government in carrying out
19 the purposes of the Social Security Act and in other
20 matters of mutual concern pertaining to public
21 welfare, public assistance, and child welfare



1 services, including the making of reports, the
2 adoption of methods of administration, and the making
3 of rules as are found by the federal government, or
4 any properly constituted authority thereunder, to be
5 necessary or desirable for the efficient operation of
6 the plans for public welfare, assistance, and child
7 welfare services or as may be necessary or desirable
8 for the receipt of financial assistance from the
9 federal government;

10 (9) Carry on research and compile statistics relative to
11 public and private welfare activities throughout the
12 State, including those dealing with dependence,
13 defectiveness, delinquency, and related problems;

14 (10) Develop plans in cooperation with other public and
15 private agencies for the prevention and treatment of
16 conditions giving rise to public welfare problems;

17 (11) Adopt rules governing the procedure in hearings,
18 investigations, recording, registration, determination
19 of allowances, and accounting and conduct other
20 activities as may be necessary or proper to carry out
21 this chapter;



- 1 (12) Supervise or administer any other activities
2 authorized or required by this chapter, including the
3 development of the staff of the department through in-
4 service training and educational leave to attend
5 schools and other appropriate measures, and any other
6 activities placed under the jurisdiction of the
7 department by any other law;
- 8 (13) Make, prescribe, and enforce policies and rules
9 governing the activities provided for in section
10 346-31 it deems advisable, including the allocation of
11 moneys available for assistance to persons assigned to
12 work projects among the several counties or to
13 particular projects where the apportionment has not
14 been made pursuant to other provisions of law, if any,
15 governing expenditures of the funds;
- 16 (14) Determine the appropriate level for the Hawaii
17 security net, by developing a tracking and monitoring
18 system to determine what segments of the population
19 are not able to afford the basic necessities of life,
20 and advise the legislature annually regarding the



1 resources required to maintain the security net at the
2 appropriate level;

3 (15) Subject to the appropriation of state funds and
4 availability of federal matching assistance, expand
5 optional health care to low-income persons as follows:

6 (A) Pregnant women and infants under one year of age
7 living in families with incomes up to one hundred
8 eighty-five per cent of the federal poverty level
9 and without any asset restrictions;

10 (B) Children under six years of age living in
11 families with incomes up to one hundred thirty-
12 three per cent of the federal poverty level and
13 without any asset restrictions;

14 (C) Older children to the extent permitted under
15 optional federal medicaid rules;

16 (D) Elder persons;

17 (E) Aliens;

18 (F) The homeless; and

19 (G) Other handicapped and medically needy persons;

20 [and]



- 1 (16) Subject to the appropriation of state funds and
2 availability of federal matching assistance, establish
3 the income eligibility level for the medically needy
4 program at one hundred thirty-three per cent of the
5 assistance allowance [-]; and
- 6 (17) Subject to the appropriation of state funds and the
7 availability of federal funds, develop and administer
8 outreach as required by the federal Patient Protection
9 and Affordable Care Act of 2010, Public Law 111-148,
10 as amended."

11 SECTION 4. The departments of commerce and consumer
12 affairs, labor and industrial relations, and human services may
13 adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to
14 effectuate the purposes of this Act; provided that the
15 departments may adopt interim rules, which shall be exempt from
16 chapters 91 and 201M, Hawaii Revised Statutes, to effectuate the
17 purposes of this Act; provided further that the interim rules
18 shall remain in effect until January 1, 2018, or until rules are
19 adopted pursuant to chapter 91, Hawaii Revised Statutes,
20 whichever occurs sooner.



1 SECTION 5. All records, equipment, machines, files,
2 supplies, books, papers, documents, maps, and other personal
3 property heretofore made, used, acquired, or held by the Hawaii
4 health connector shall be transferred to the department of labor
5 and industrial relations to the extent that such records,
6 equipment, machines, files, supplies, books, papers, documents,
7 maps and other personal property heretofore made, used,
8 acquired, or held were purchased with federal or state funds and
9 to the extent permitted by federal law.

10 SECTION 6. There shall be no cause of action, claim for
11 damages or relief, charge, or any other liability of any kind
12 whatsoever created against the State, or any of its agencies,
13 agents, or employees, which relates to or arises out of the
14 Hawaii health connector's performance of or failure to perform
15 its duties during its existence as the Hawaii health insurance
16 exchange. Furthermore, there shall be no cause of action, claim
17 for damages or relief, charge, or any other liability of any
18 kind whatsoever created against the State, or any of its
19 agencies, agents, or employees, which relates to the State's
20 assumption, retention, and reporting of any information, or the
21 accuracy thereof, collected or created by the Hawaii health



1 connector, or that the Hawaii health connector did not collect,
2 create, retain, or report, during its existence as the Hawaii
3 health insurance exchange.

4 SECTION 7. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 8. If any part of this Act is found to be in
11 conflict with federal requirements that are a prescribed
12 condition for the allocation of federal funds to the State, the
13 conflicting part of this Act is inoperative solely to the extent
14 of the conflict and with respect to the agencies directly
15 affected, and this finding does not affect the operation of the
16 remainder of this Act in its application to the agencies
17 concerned. The governor may modify the strict provisions of
18 this Act, to the extent, and only to the extent, necessary to
19 effectuate the intent of this Act.

20 SECTION 9. This Act shall not be applied so as to impair
21 any contract existing as of the effective date of this Act in a



1 manner violative of either the Hawaii State Constitution or
2 Article 1, section 10, of the United States Constitution.

3 SECTION 10. This Act shall be liberally construed to
4 effectuate its purpose.

5 SECTION 11. The director of labor and industrial relations
6 may establish six additional temporary positions in the office
7 of community services, without regard to chapters 76 and 89,
8 Hawaii Revised Statutes, to carry out the purposes of this Act.
9 The positions may include an accountant V, two program
10 specialist IV, a secretary V, program manager, information
11 technology specialist VII, and any other position the director
12 deems necessary for the purposes of this Act.

13 SECTION 12. The director of human services may establish
14 nine additional permanent positions in the Med-QUEST division,
15 without regard to chapters 76 and 89, Hawaii Revised Statutes,
16 to carry out the purposes of this Act. The positions may
17 include a premium assistance clerk, purchasing specialist III,
18 communications specialist, outreach manager, four outreach
19 coordinators, outreach clerical staff, and any other position
20 the director deems necessary for the purposes of this Act.



1 SECTION 13. The director of labor and industrial relations
2 shall submit a report to the legislature on the status of the
3 Hawaii health insurance programs, including revenues, how many
4 policies were subject to the issuer fees, expenditures, and
5 program results pursuant to section 2 of this Act, no later than
6 twenty days prior to the convening of the regular session of
7 2018.

8 SECTION 14. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$1,165,000 or so much
10 thereof as may be necessary for fiscal year 2016-2017 to carry
11 out the purposes of this Act, including operating expenses and
12 the hiring of staff.

13 The sum appropriated shall be expended by the department of
14 labor and industrial relations for the purposes of this Act.

15 SECTION 15. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$2,918,788 or so much
17 thereof as may be necessary for fiscal year 2016-2017 to carry
18 out the purposes of this Act, including operating expenses and
19 the hiring of staff.

20 The sum appropriated shall be expended by the department of
21 human services for the purposes of this Act.



1 SECTION 16. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 17. This Act shall take effect on July 1, 2016;
4 provided that section 2 of this Act shall be repealed on
5 January 1, 2018.



Report Title:

Hawaii Health Insurance Programs; State Health Insurance Exchange; Department of Labor and Industrial Relations; Department of Human Services; Appropriation

Description:

Authorizes the Department of Human Services to develop and administer outreach as required by the Affordable Care Act. Establishes a state health insurance exchange, the Hawaii Health Insurance Programs, in the Department of Labor and Industrial Relations to conform Hawaii law to the Affordable Care Act. Appropriates funds to the Department of Labor and Industrial Relations and the Department of Human Services. Repeals the Hawaii health insurance exchange programs on January 1, 2018. (HD2)

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