

JAN 27 2016

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1 SECTION 1. **Findings and purpose.** The significant benefits
2 of Hawaii's Prepaid Health Care Act, enacted in 1974, are
3 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, as amended, (Affordable Care Act) is to lower the uninsured
7 rate by expanding public and private insurance coverage.

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

14 Due to the small number of uninsured residents in Hawaii,
15 Hawaii has not been able to maintain a financially self-
16 sustaining health insurance exchange. Consequently, the Centers
17 for Medicare and Medicaid Services found that Hawaii's exchange,



1 the Hawaii Health Connector, was not financially self-
2 sustainable by January 1, 2015, as required by the Affordable
3 Care Act.

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

17 The purpose of this Act is to preserve the benefits of the
18 Hawaii Prepaid Health Care Act for Hawaii residents, to ensure a
19 smooth transition from a state-based marketplace to a state-
20 based marketplace using the federal platform for individuals and
21 families, and to develop a system to allow small businesses to



1 continue to take advantage of tax credits afforded by the
2 Affordable Care Act.

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

5 "§346-14 Duties generally. Except as otherwise provided
6 by law, the department of human services shall:

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



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- 1 (5) Place, or cooperate in placing, abused or neglected
2 children in suitable private homes or institutions and
3 place, or cooperate in placing, children in suitable
4 adoptive homes;
- 5 (6) Have authority to establish, maintain, and operate
6 receiving homes for the temporary care and custody of
7 abused or neglected children until suitable plans are
8 made for their care; and accept from the police and
9 other agencies, for temporary care and custody, any
10 abused or neglected child until satisfactory plans are
11 made for the child;
- 12 (7) Administer the medical assistance programs for
13 eligible public welfare and other medically needy
14 individuals by establishing standards, eligibility,
15 and health care participation rules, payment
16 methodologies, reimbursement allowances, systems to
17 monitor recipient and provider compliance, and
18 assuring compliance with federal requirements to
19 maximize federal financial participation;
- 20 (8) Cooperate with the federal government in carrying out
21 the purposes of the Social Security Act and in other



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

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

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

19 (11) Adopt rules governing the procedure in hearings,
20 investigations, recording, registration, determination
21 of allowances, and accounting and conduct other



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1 activities as may be necessary or proper to carry out
2 this chapter;

3 (12) Supervise or administer any other activities authorized
4 or required by this chapter, including the development
5 of the staff of the department through in-service
6 training and educational leave to attend schools and
7 other appropriate measures, and any other activities
8 placed under the jurisdiction of the department by any
9 other law;

10 (13) Make, prescribe, and enforce policies and rules
11 governing the activities provided for in section 346-
12 31 it deems advisable, including the allocation of
13 moneys available for assistance to persons assigned to
14 work projects among the several counties or to
15 particular projects where the apportionment has not
16 been made pursuant to other provisions of law, if any,
17 governing expenditures of the funds;

18 (14) Determine the appropriate level for the Hawaii security
19 net, by developing a tracking and monitoring system to
20 determine what segments of the population are not able
21 to afford the basic necessities of life, and advise



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1 the legislature annually regarding the resources
2 required to maintain the security net at the
3 appropriate level;

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

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

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

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

17 (D) Elder persons;

18 (E) Aliens;

19 (F) The homeless; and

20 (G) Other handicapped and medically needy persons;

21 [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 Patient Protection and
9 Affordable Care Act of 2010, Public Law 111-148, as
10 amended."

11 SECTION 3. There is created the Hawaii health insurance
12 programs in the department of labor and industrial relations to
13 conform Hawaii law with the federal Patient Protection and
14 Affordable Care Act, Public Law 111-148, as amended.

15 SECTION 4. **Definitions.** As used in this Act:

16 "Commissioner" means the insurance commissioner.

17 "Department" means the department of labor and industrial
18 relations.

19 "Director" means the director of labor and industrial
20 relations.



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

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

13 SECTION 5. Hawaii health insurance programs; purpose. (a)
14 There is established in the department a state health insurance
15 exchange, named the Hawaii health insurance programs pursuant to
16 the federal act. The purpose of the Hawaii health insurance
17 programs is to enable the provision of health insurance to
18 comply with the federal act.

19 (b) The department is authorized to take any action
20 necessary to operate a small business health options program
21 pursuant to the federal act to assist qualified employers and to



1 facilitate enrollment of qualified employees into qualified
2 health plans.

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

8 (d) Eligibility appeals under the small business health
9 options program shall comply with the requirements of the
10 federal act and shall not be subject to chapter 91, Hawaii
11 Revised Statutes. Decisions shall not be subject to judicial
12 review.

13 (e) The department shall be exempt from chapter 103D,
14 Hawaii Revised Statutes, for purposes of this Act.

15 SECTION 6. Issuer fees. The department shall collect fees
16 up to the amount allowed by the federal act, without the
17 necessity of a rule, from each qualified health and dental plan
18 certified by the director and participating in the state
19 exchange pursuant to this Act from January 1, 2016, to January
20 1, 2018.



1 SECTION 7. 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 on consumer
7 protection and commerce;

8 (2) The chair of the house standing committee on health;

9 (3) The chair of the house standing committee on finance;

10 (4) The chair of the senate standing committee on
11 commerce, consumer protection, and health;

12 (5) The chair of the senate standing committee on ways and
13 means;

14 (6) One member of the minority party of the house, to be
15 selected by the minority party leader; and

16 (7) One member of the minority party of the senate, to be
17 selected by the minority party leader.

18 (c) The chairs of the house committee on consumer
19 protection and commerce and the senate committee on commerce,
20 consumer protection, and health shall serve as the co-chairs of
21 the committee.



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

3 (e) The committee shall make recommendations as needed to
4 the house committee on finance and the senate committee on ways
5 and means.

6 SECTION 8. Oversight; rate regulation. (a) The
7 commissioner shall retain full regulatory jurisdiction pursuant
8 to the authority granted to the commissioner by part II of
9 article 2 of chapter 431, Hawaii Revised Statutes, over all
10 insurers, qualified plans, and qualified dental plans included
11 in the state health insurance exchange.

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

15 SECTION 9. Effect on the Hawaii prepaid health care act.
16 Nothing in this Act shall in any manner diminish or limit the
17 protections contained in or alter the provisions of chapter 393,
18 Hawaii Revised Statutes.

19 SECTION 10. The departments of commerce and consumer
20 affairs, labor and industrial relations, and human services may
21 adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to



1 effectuate the purposes of this Act, provided that the
2 departments may adopt interim rules, which shall be exempt from
3 chapters 91 and 201M, Hawaii Revised Statutes, to effectuate the
4 purposes of this Act. The interim rules shall remain in effect
5 until January 1, 2018, or until rules are adopted pursuant to
6 chapter 91, Hawaii Revised Statutes, whichever occurs sooner.

7 SECTION 11. Chapter 435H, Hawaii Revised Statutes, is
8 repealed.

9 SECTION 12. All records, equipment, machines, files,
10 supplies, books, papers, documents, maps, and other personal
11 property heretofore made, used, acquired, or held by the Hawaii
12 health connector shall be transferred to the department of labor
13 and industrial relations to the extent that such records,
14 equipment, machines, files, supplies, books, papers, documents,
15 maps and other personal property heretofore made, used,
16 acquired, or held were purchased with federal or state funds and
17 to the extent permitted by federal law.

18 SECTION 13. There shall be no cause of action, claim for
19 damages or relief, charge, or any other liability of any kind
20 whatsoever created against the State, or any of its agencies,
21 agents, or employees, which relates to or arises out of the



1 Hawaii health connector's performance of or failure to perform
2 its duties during its existence as the Hawaii health insurance
3 exchange. Furthermore, there shall be no cause of action, claim
4 for damages or relief, charge, or any other liability of any
5 kind whatsoever created against the State, or any of its
6 agencies, agents, or employees, which relates to the State's
7 assumption, retention, and reporting of any information, or the
8 accuracy thereof, collected or created by the Hawaii health
9 connector, or that the Hawaii health connector did not collect,
10 create, retain, or report, during its existence as the Hawaii
11 health insurance exchange.

12 SECTION 14. If any provision of this Act, or the
13 application thereof to any person or circumstance, is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 15. If any part of this Act is found to be in
19 conflict with federal requirements that are a prescribed
20 condition for the allocation of federal funds to the State, the
21 conflicting part of this Act is inoperative solely to the extent



1 of the conflict and with respect to the agencies directly
2 affected, and this finding does not affect the operation of the
3 remainder of this Act in its application to the agencies
4 concerned. The governor may modify the strict provisions of this
5 Act, to the extent, and only to the extent, necessary to
6 effectuate the intent of this Act.

7 SECTION 16. This Act shall not be applied so as to impair
8 any contract existing as of the effective date of this Act in a
9 manner violative of either the Hawaii Constitution or Article 1,
10 section 10, of the United States Constitution.

11 SECTION 17. This Act shall be liberally construed to
12 effectuate its purpose.

13 SECTION 18. The director of labor and industrial relations
14 may establish six or more additional temporary positions in the
15 office of community service, without regard to chapters 76 and
16 89, Hawaii Revised Statutes, to carry out the purposes of this
17 Act. The positions may include an accountant V, two program
18 specialist IV positions, a secretary V, program manager,
19 information technology specialist VII, and any other position
20 the director deems necessary for the purposes of this Act.



1 SECTION 19. The director of human services may establish
2 nine or more additional permanent positions in the Med-QUEST
3 division, without regard to chapters 76 and 89, Hawaii Revised
4 Statutes, to carry out the purposes of this Act. The positions
5 may include a premium assistance clerk, purchasing specialist
6 III, communications specialist, outreach manager, four outreach
7 coordinators, an outreach clerical staff, and any other position
8 the director deems necessary for the purposes of this Act.

9 SECTION 20. The director of labor and industrial relations
10 shall submit a report to the legislature on the status of the
11 Hawaii health insurance programs including revenues, how many
12 policies were subject to the issuer fees, expenditures, and
13 program results pursuant to section 3 of this Act no later than
14 twenty days prior to the regular session of 2018.

15 SECTION 21. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$1,165,000 or so much
17 thereof as may be necessary for fiscal year 2016-2017 for
18 operating expenses, including the hiring of staff, and to carry
19 out the purposes of this Act.

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



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1 SECTION 22. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$2,918,788 or so much
3 thereof as may be necessary for fiscal year 2016-2017 for
4 operating expenses, including the hiring of staff, and to carry
5 out the purposes of this Act.

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

8 SECTION 23. This Act, upon its approval, shall take effect
9 on July 1, 2016; provided that section 3 of this Act shall be
10 repealed on January 1, 2018.

11

INTRODUCED BY: Rosely H. Baker
By Request



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Report Title:

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

Description:

Establishes the state health insurance exchange, known as the Hawaii Health Insurance Programs. Establishes the Affordable Care Act Legislative Oversight Committee. Repeals the Hawaii Health Connector Law. Appropriates funds to carry out the purposes of the Act.

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