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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 PART I

2 SECTION 1. Critically ill patients in Hawaii may require  
3 treatment on the continental United States. The cost of  
4 transportation by an air ambulance can be a significant  
5 financial burden that may not be covered by insurance.

6 Commercial flights are not an option because the patient  
7 requires life supporting equipment and a medical support team.

8 For patients requiring transportation to the continental  
9 United States, their only options are to mortgage their homes,  
10 drain retirement savings, borrow from family or friends, or  
11 establish a Gofundme.com campaign to raise funds. During the  
12 time that a family is fundraising for a sick loved one, the  
13 patient's condition can deteriorate rapidly and reduce the  
14 chance of recovery. In addition, if the delay is too great,  
15 then the accepting facility may give the patient's bed to  
16 another individual and the patient is forced to find another  
17 accepting facility.



1       The legislature finds that Medicaid currently covers the  
2   cost of transportation for Hawaii's most needy families, but  
3   those who are middle-income earners and working full-time do not  
4   receive coverage for the cost of transportation to the  
5   continental United States. The legislature also finds that due  
6   to Hawaii's unique position in the middle of the Pacific Ocean,  
7   residents deserve to receive life-saving medical care that is  
8   not available in the State.

9       The purpose of this part is to ensure the provision of  
10   quality health care by requiring insurance coverage for the  
11   costs of medically necessary transportation to the continental  
12   United States for qualifying patients.

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

16       "§431:10A-    Qualifying patients; transportation cost  
17   coverage.   Notwithstanding any law to the contrary, each policy  
18   of accident and health or sickness insurance issued or renewed  
19   in this State after December 31, 2018, providing coverage for  
20   health care, except for policies that only provide coverage for  
21   specified diseases or other limited benefit coverage, shall



1 provide coverage for the costs of medically necessary  
2 transportation from the State to the continental United States  
3 for qualifying patients for the purpose of obtaining treatment.

4 For purposes of this section, "qualifying patient" is  
5 defined by a medical provider's team as a patient that meets all  
6 of the following criteria:

7 (1) The patient displays a high risk of imminent death  
8 despite optimal available treatment in the State;

9 (2) The patient has a diagnosis of a potentially  
10 reversible disease or is a potential candidate for a  
11 heart or lung, or both, transplant, destination  
12 ventricular assist device, or total artificial heart;

13 (3) The medically necessary out-of-state treatment as  
14 defined in chapter 432E, for the patient is not  
15 available in the State;

16 (4) The patient shall not have any known absolute  
17 contraindications to the out-of-state treatment being  
18 sought;

19 (5) The patient does not have end stage dementia, anoxic  
20 brain injury, terminal cancer, or a premorbid  
21 condition with a short term expected survival; and



1       (6) The patient is not being transported for the sole  
2       purpose of cancer treatment or bone marrow  
3       transplant."

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

7       "§432:1-     Qualifying patients; transportation cost  
8       coverage. Notwithstanding any law to the contrary, each  
9       hospital and medical service plan contract issued or renewed in  
10      this State after December 31, 2018, shall provide coverage for  
11      the costs of medically necessary transportation from the State  
12      to the continental United States for qualifying patients for the  
13      purpose of obtaining treatment.

14      For purposes of this section, "qualifying patient" is  
15      defined by a medical provider's team as a patient that meets all  
16      of the following criteria:

- 17      (1) The patient displays a high risk of imminent death  
18      despite optimal available treatment in the State;  
19      (2) The patient has a diagnosis of a potentially  
20      reversible disease or is a potential candidate for a



heart or lung, or both, transplant, destination  
ventricular assist device, or total artificial heart;

(3) The medically necessary out-of-state treatment as  
defined in chapter 432E, for the patient is not  
available in the State;

(4) The patient shall not have any known absolute  
contraindications to the out-of-state treatment being  
sought;

(5) The patient does not have end stage dementia, anoxic  
brain injury, terminal cancer, or a premorbid  
condition with a short term expected survival; and

(6) The patient is not being transported for the sole  
purpose of cancer treatment or bone marrow  
transplant."

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

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

Notwithstanding any provision of law to the contrary, each  
policy, contract, plan, or agreement issued in the State after  
January 1, 1995, by health maintenance organizations pursuant to  
this chapter, shall include benefits provided in sections



1 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
2 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,  
3 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,  
4 431:10A-133, 431:10A-140, [and] 431:10A-134, and 431:10A-, and  
5 chapter 431M."

6 SECTION 5. Notwithstanding section 432D-23, Hawaii Revised  
7 Statutes, the coverage and benefits for the medically necessary  
8 transportation costs for qualifying patients provided by health  
9 maintenance organizations under section 4 of this part shall  
10 apply to all policies, contracts, plans, or agreements issued or  
11 renewed in this State by a health maintenance organization after  
12 December 31, 2018.

13 PART II

14 SECTION 6. The purpose of this part is to require the  
15 auditor to conduct a study to assess the social and financial  
16 effects of requiring health insurers, hospital and medical  
17 services plans, and health maintenance organizations to provide  
18 coverage for the costs of medically necessary transportation to  
19 the continental United States for medical treatment for  
20 qualifying patients



1       SECTION 7. (a) The auditor shall conduct a study to  
2       assess the impact of the social and financial effects of  
3       requiring health insurers, hospital and medical services plans,  
4       and health maintenance organizations to provide coverage for the  
5       costs of medically necessary transportation to the continental  
6       United States for medical treatment for qualifying patients, as  
7       provided in part I of this Act.

8       (b) Pursuant to section 23-52, Hawaii Revised Statutes, in  
9       determining the social impact of the proposed mandate of health  
10      coverage, the study shall include:

11      (1) The extent to which the treatment or service is  
12           generally utilized by a significant portion of the  
13           population;

14      (2) The extent to which such insurance coverage is already  
15           generally available;

16      (3) If coverage is not generally available, the extent to  
17           which the lack of coverage results in persons being  
18           unable to obtain necessary health care treatment;

19      (4) If the coverage is not generally available, the extent  
20           to which the lack of coverage results in unreasonable  
21           financial hardship on those persons needing treatment;



1 (5) The level of public demand for the treatment or  
2 service;

3 (6) The level of public demand for individual or group  
4 insurance coverage of the treatment or service;

5 (7) The level of interest of collective bargaining  
6 organizations in negotiating privately for inclusion  
7 of this coverage in group contracts;

8 (8) The impact of providing coverage for the treatment or  
9 service (such as morbidity, mortality, quality of  
10 care, change in practice patterns, provider  
11 competition, or related items); and

12 (9) The impact of any other indirect costs upon the costs  
13 and benefits of coverage as may be deemed necessary by  
14 the auditor.

15 (c) Pursuant to section 23-52, Hawaii Revised Statutes, in  
16 determining the financial impact of the proposed mandate of  
17 health coverage, the study shall include:

18 (1) The extent to which insurance coverage of the kind  
19 proposed would increase or decrease the cost of the  
20 treatment or service;





1 (2) The extent to which the proposed coverage might  
2 increase the use of the treatment or service;

3 (3) The extent to which the mandated treatment or service  
4 might serve as an alternative for more expensive  
5 treatment or service;

6 (4) The extent to which insurance coverage of the health  
7 care service or provider can be reasonably expected to  
8 increase or decrease the insurance premium and  
9 administrative expenses of policyholders; and

10 (5) The impact of this coverage on the total cost of  
11 health care.

12 (d) The auditor shall submit findings and recommendations,  
13 including any proposed legislation, to the legislature no later  
14 than twenty days prior to the convening of the regular session  
15 of 2019.

16 PART III

17 SECTION 8. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 3000.



**Report Title:**

Insurance Coverage; Transportation Costs; Qualifying Patients;  
Mandated Coverage; Auditor Study

**Description:**

Requires insurance coverage after December 31, 2018, for the costs of medically necessary transportation to the continental United States for medical treatment for qualifying patients. Requires the auditor to conduct a study to assess the social and financial impacts of mandating certain health insurers and plans to provide coverage for the costs of medically necessary transportation to the continental United States for medical treatment for qualifying patients. (HB687 HD2)

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