

SB 2199

SD1 HD1

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The legislature finds that the federal Patient
2 Protection and Affordable Care Act of 2010, P.L. 111-148
3 (Affordable Care Act), as amended, encourages states to develop
4 innovative approaches to ensure that their populations are
5 covered by health insurance. The Act authorizes states to apply
6 for waivers from certain requirements of the Affordable Care
7 Act.

8 Under section 1332 of the Affordable Care Act, a state may
9 apply for a state innovation waiver, which allows the state to
10 implement innovations that help provide access to quality health
11 insurance while preserving the basic protections of the
12 Affordable Care Act. To be eligible for a waiver, a state must
13 demonstrate that its proposed health insurance reforms are as
14 comprehensive and affordable as the federal requirements for
15 insurance. In addition, the proposed reforms must be budget-
16 neutral for the federal government.



1 A state that is granted an innovation waiver may receive
2 federal assistance to operate its proposed health insurance
3 reform programs. The amount of assistance may equal the
4 aggregate amount of tax credits and cost-sharing subsidies that
5 the federal government would have otherwise paid for individuals
6 enrolled in a state health insurance exchange.

7 The legislature further finds that the State has a bold
8 history as an innovator in ensuring that its residents have
9 access to health care. The Hawaii Prepaid Health Care Act has
10 ensured the availability of employer-sponsored health insurance
11 for workers and their families, and the State's medicaid program
12 has provided access to comprehensive managed care for low-income
13 families. Hawaii was also the first state to receive a state
14 innovation waiver under section 1332 of the Affordable Care Act.
15 This waiver allowed Hawaii to effect changes to its small
16 business health insurance exchanges that preserved the
17 protections of the Hawaii Prepaid Health Care Act.

18 The legislature notes that Act 43, Session Laws of Hawaii
19 2017, was enacted to establish the affordable health insurance
20 working group to address the complexities of the health care
21 system in Hawaii and the related uncertainty over the future of



1 the Affordable Care Act in light of recent federal actions to
2 repeal and replace the Affordable Care Act. Act 43 directed the
3 working group to make recommendations on policy issues
4 including:

- 5 (1) Minimum standard coverage requirements for
- 6 individuals;
- 7 (2) Essential health care benefits;
- 8 (3) Rate setting;
- 9 (4) Medicaid expansion;
- 10 (5) Financial requirements and financing options; and
- 11 (6) Other issues that may arise, pursuant to the
- 12 discretion of the working group.

13 One recommendation of the working group was to apply for
14 another section 1332 state innovation waiver to explore the
15 possible establishment of a state reinsurance program for the
16 individual health insurance market. The intent of such a
17 program would be to control the cost of health insurance in
18 Hawaii by providing additional funding and innovative methods of
19 pooling risk to cover health care for high-risk patients with
20 costly medical claims.



1 Accordingly, in order to implement the recommendations of
2 the affordable health insurance working group, the legislature
3 believes that the State must submit another state innovation
4 waiver proposal to the federal government for approval.

5 The purpose of this Act is to authorize the State to submit
6 a state innovation waiver proposal to the federal government and
7 to implement the conditions of the waiver upon approval by the
8 federal government.

9 SECTION 2. The State may submit a state innovation waiver
10 proposal to the United States Secretaries of Health and Human
11 Services and the Treasury to waive certain provisions of the
12 federal Patient Protection and Affordable Care Act of 2010, P.L.
13 111-148, as amended, as provided under section 1332 of the
14 federal act, and upon approval by the Secretaries, to implement
15 the waiver on or after January 1, 2019.

16 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Insurance; Affordable Care Act; State Innovation Waiver; State Reinsurance Program

Description:

Authorizes the State to apply for and implement a waiver from certain provisions of the Patient Protection and Affordable Care Act of 2010, as amended. (SB2199 HD1)

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





DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

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**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

**TWENTY-NINTH LEGISLATURE
Regular Session of 2018**

Tuesday, March 20, 2018
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2199, S.D. 1, H.D. 1, RELATING TO
INSURANCE.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify in strong support of S.B. 2199, S.D. 1, H.D. 1, Relating to Insurance. My name is Gordon Ito, and I am the Insurance Commissioner for the Department’s Insurance Division.

The purpose of this measure is to authorize the State to submit a state innovation waiver proposal to the federal government pursuant to section 1332 of the federal Patient Protection and Affordable Care Act (“ACA”) and to implement the conditions of the waiver upon approval by the federal government. H.D. 1 amends this measure by changing its effective date to July 1, 3000, to promote further discussion.

Section 1332 of the ACA allows states to apply for a state innovation waiver to implement innovative ways to provide access to quality health care that is at least as comprehensive and affordable as would be provided absent the waiver, and to provide coverage to a comparable number of residents of the state as would be provided coverage absent a waiver.

Reinsurance programs in conjunction with section 1332 innovation waivers have been established in other states as a method to help mitigate premium increases in their individual health insurance markets. The waivers provide for “pass-through” funding from the federal government based on savings their reinsurance programs create. The authority provided by this measure is necessary to allow the State to pursue a similar opportunity. Therefore, the Department respectfully requests an “upon approval” effective date.

Thank you for the opportunity to testify in strong support of this measure.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 19, 2018

TO: The Honorable Representative Roy M. Takumi, Chair
House Committee on Consumer Protection & Commerce

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2199 SD1 HD1 – RELATING TO INSURANCE**

Hearing: Tuesday, March 20, 2018 2:00 p.m.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill.

PURPOSE: The purpose of the bill is to authorize the State to apply for and implement a waiver from certain provisions of the Patient Protection and Affordable Care Act of 2010, as amended. The Senate Committee on Ways & Means amended the measure by defecting the effective date and making technical amendments.

DHS participated in the Affordable Health Insurance Working Group that discussed the ever-increasing costs to our health care system which affect the affordability of our health insurance. One of the recommendations of the group was to submit another state innovation waiver proposal, known as a 1332 waiver, to the federal government for approval. The Department of Commerce and Consumer Affairs' Insurance Division will be lead on this effort.

Also, DHS Med-QUEST division will be submitting a Medicaid waiver renewal known as an 1115 waiver for continued innovations in the Medicaid program. These efforts complement and rely on each other to address the issues of a sustainable health insurance and health care delivery system for our community.

Thank you for the opportunity to testify on this measure.

AN EQUAL OPPORTUNITY AGENCY

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

March 20, 2018
2:00 p.m.
Conference Room 329

Re: SB2199 SD1 HD1, Relating to Insurance

Chair Takumi, Vice-Chair Ichiyama, and committee members, thank you for this opportunity to provide testimony on SB2199 SD1 HD1, which authorizes the State to submit a section 1332 state innovation waiver proposal to the federal government and to implement the conditions of the waiver upon approval by the federal government.

Kaiser Permanente Hawaii SUPPORTS SB2199 SD1 HD1

As the committee is aware, significant uncertainties exist in the individual health insurance market. Last year, the federal government eliminated funding of Cost Sharing Reduction payments, which drove up premiums for many consumers seeking coverage in Hawai'i and across the nation. Both the elimination of the Cost Sharing Reduction payments and the elimination of the penalty associated with the individual mandate has resulted in further uncertainty about the future of the individual market. For this reason, we support the state's efforts to stabilize the individual market, including the creation of a statewide reinsurance program.

Although there is no solution as effective as an enforced individual mandate, an appropriately structured and funded reinsurance program is a step towards reducing individual premiums and promoting stability in the individual market. We saw the role the federal reinsurance program in partnership with risk adjustment played in supporting plans that enrolled higher-risk individuals, thereby protecting issuers against adverse selection within a market and encouraging them to offer products that serve all types of consumers. A state reinsurance program, if appropriately funded and structured, could support adequate levels of coverage while discouraging low-value plans. If appropriately structured, it could also benefit consumers by encouraging more health plan participation in markets where there isn't currently enough competition.

If appropriately and sustainably funded and structured, Kaiser Permanente Hawai'i could support the implementation of a permanent, state-based reinsurance program in Hawai'i through a State

Innovation Waiver under Section 1332 of the Affordable Care Act (ACA). Similar to the transitional reinsurance program under ACA, we believe a state-based program should be claims-based since health plans have experience with the existing ACA framework. If implemented, the program should include a cap where federal risk adjustment starts (i.e. \$1 million in 2019), with a sufficiently high attachment point to encourage efficient claims management. We note that the Insurance Commissioner is in the process of retaining a third-party consultant to weigh various program design options.

In conclusion, to truly protect and preserve the individual market in Hawai'i, Kaiser Permanente Hawai'i recommends that policymakers adopt a state-based individual mandate.

We look forward to having the opportunity to work with the Committee to further SB2199 SD1 HD1. Thank you for the opportunity to testify on this measure.



An Independent Licensee of the Blue Cross and Blue Shield Association

March 20, 2018

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce

Re: SB 2199, SD1, HD1 – Relating to Insurance

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2199, SD1, HD1, that authorizes the State to apply for and implement a waiver from certain provisions of the Patient Protection and Affordable Care Act of 2010. HMSA supports SB 2199, SD1, HD1.

We understand this legislation to be a useful tool to allow the state to provide additional funding and innovative methods of pooling risk to cover health care for high-risk patients with costly medical claims. We look forward to the discussion on the details of the program including the funding mechanism.

Thank you for allowing us to testify on this measure.

Sincerely,

Jennifer Diesman
Senior Vice President, Government Relations