

JAN 24 2024

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The purpose of this Act is to facilitate within
2 the State the availability of high deductible health plans that
3 may be purchased by members of the labor force for use with a
4 health savings account. Maintenance of a health savings account
5 is intended to be a required condition for a high deductible
6 health plan. It is the intent of the legislature that health
7 savings accounts shall be used to pay for or reimburse
8 qualifying medical expenses and to maximize favorable tax
9 treatment through year-to-year accumulation of contributions,
10 which may be distributed on a tax-free basis.

11 This Act shall be liberally construed to allow employers
12 and employees to receive maximum tax benefits provided in
13 federal or state law through the use of a high deductible health
14 plan.

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



1 "§431:10A- High deductible health plan; limitations.

2 (a) On or after January 1, 2025, and subject to regulation by
3 the commissioner and the department of labor and industrial
4 relations, an insurer may offer, sell, or renew a high
5 deductible health plan to employers that are subject to chapter
6 393; provided that the insurer shall also sell the employer a
7 prepaid health care plan group accident and health or sickness
8 insurance policy that is not a high deductible health plan.

9 No package consisting of a high deductible health plan
10 offered in conjunction with a health savings account shall be
11 offered, sold, or renewed pursuant to this section unless the
12 package is approved as a prepaid group health care plan pursuant
13 to section 393-7(b).

14 (b) Nothing in this section shall allow an employer
15 subject to chapter 393 to avoid providing a prepaid health care
16 plan. It shall be a violation of this section for any insurer
17 subject to this section to offer, sell, or renew a high
18 deductible health plan without a health savings account, or vice
19 versa, to an employer that is subject to chapter 393. An
20 employer who provides a high deductible health plan in
21 conjunction with a health savings account to a participating



1 employee shall contribute _____ per cent per pay period into the
2 participating employee's health savings account maintained in
3 conjunction with a high deductible health plan pursuant to this
4 section.

5 (c) To ensure that employees are voluntarily electing, and
6 not being inappropriately directed, to choose a high deductible
7 health plan, each insurer that offers, sells, or renews a high
8 deductible health plan in conjunction with a health savings
9 account shall file with the commissioner a report containing the
10 insurer's educational information and marketing materials
11 regarding the health plan and health savings account that may be
12 offered by the insurer. The insurance commissioner shall
13 receive any complaints from employees arising under this
14 subsection.

15 (d) If this section or any provision of this section
16 conflicts at any time with any federal law, then the federal law
17 shall prevail and this section or the relevant provisions of
18 this section shall become ineffective and invalid. The
19 ineffectiveness or invalidity of this section or any of its
20 provisions shall not affect any other provisions or applications
21 of this section, which shall be given effect without the invalid



1 provision or application, and to this end, the provisions of
2 this section are severable.

3 (e) Nothing in this section shall require an insurer to
4 provide a health savings account to an employer or otherwise
5 require an insurer to serve as the primary custodian or trustee
6 of the health savings account.

7 (f) Nothing in this section shall be construed to affect
8 collectively bargained agreements.

9 (g) As used in this section, unless the context clearly
10 requires otherwise:

11 "Health savings account" means a health savings account
12 authorized under section 223 of the Internal Revenue Code of
13 1986, as amended.

14 "High deductible health plan" shall have the same meaning
15 as in section 223 of the Internal Revenue Code of 1986, as
16 amended.

17 "Prepaid health care plan" shall have the same meaning as
18 in section 393-3."

19 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
20 amended by adding a new section to article 1 to be appropriately
21 designated and to read as follows:



1 "§432:1- High deductible health plan; limitations. (a)
2 On or after January 1, 2025, and subject to regulation by the
3 commissioner and the department of labor and industrial
4 relations, a mutual benefit society may offer, sell, or renew a
5 high deductible health plan contract to employers that are
6 subject to chapter 393; provided that the mutual benefit society
7 shall also sell the employer a prepaid health care plan group
8 hospital and medical service plan that is not a high deductible
9 health plan.

10 No package consisting of a high deductible health plan
11 offered in conjunction with a health savings account shall be
12 offered, sold, or renewed pursuant to this section unless the
13 package is approved as a prepaid group health care plan pursuant
14 to section 393-7(b).

15 (b) Nothing in this section shall allow an employer
16 subject to chapter 393 to avoid providing a prepaid health care
17 plan. It shall be a violation of this section for any mutual
18 benefit society subject to this section to offer, sell, or renew
19 a high deductible health plan without a health savings account,
20 or vice versa, to an employer that is subject to chapter 393.
21 An employer who provides a high deductible health plan in



1 conjunction with a health savings account to a participating
2 employee shall contribute _____ per cent per pay period into the
3 participating employee's health savings account maintained in
4 conjunction with a high deductible health plan pursuant to this
5 section.

6 (c) To ensure that employees are voluntarily electing, and
7 not being inappropriately directed, to choose a high deductible
8 health plan, each mutual benefit society that offers, sells, or
9 renews a high deductible health plan in conjunction with a
10 health savings account shall file with the commissioner a report
11 containing the mutual benefit society's educational information
12 and marketing materials regarding the health plan and health
13 savings account that may be offered by the mutual benefit
14 society. The insurance commissioner shall receive any
15 complaints from employees arising under this subsection.

16 (d) If this section or any provision of this section
17 conflicts at any time with any federal law, then the federal law
18 shall prevail and this section or the relevant provisions of
19 this section shall become ineffective and invalid. The
20 ineffectiveness or invalidity of this section or any of its
21 provisions shall not affect any other provisions or applications



1 of this section, which shall be given effect without the invalid
2 provision or application, and to this end, the provisions of
3 this section are severable.

4 (e) Nothing in this section shall require a mutual benefit
5 society to provide the health savings account to an employer or
6 otherwise require a mutual benefit society to serve as the
7 primary custodian or trustee of the health savings account.

8 (f) Nothing in this section shall be construed to affect
9 collectively bargained agreements.

10 (g) As used in this section, unless the context clearly
11 requires otherwise:

12 "Health savings account" means a health savings account
13 authorized under section 223 of the Internal Revenue Code of
14 1986, as amended.

15 "High deductible health plan" shall have the same meaning
16 as in section 223 of the Internal Revenue Code of 1986, as
17 amended.

18 "Prepaid health care plan" shall have the same meaning as
19 in section 393-3."



1 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§432D- High deductible health plan; limitations. (a)**

5 On or after January 1, 2025, and subject to regulation by the
6 commissioner and the department of labor and industrial
7 relations, a health maintenance organization may offer, sell, or
8 renew a high deductible health plan to employers that are
9 subject to chapter 393; provided that the health maintenance
10 organization shall also sell the employer a prepaid health care
11 plan group contract that is not a high deductible health plan.

12 No package consisting of a high deductible health plan
13 offered in conjunction with a health savings account shall be
14 offered, sold, or renewed pursuant to this section unless the
15 package is approved as a prepaid group health care plan pursuant
16 to section 393-7(b).

17 (b) Nothing in this section shall allow an employer
18 subject to chapter 393 to avoid providing a prepaid health care
19 plan. It shall be a violation of this section for any health
20 maintenance organization subject to this section to offer, sell,
21 or renew a high deductible health plan without a health savings



1 account, or vice versa, to an employer that is subject to
2 chapter 393. An employer who provides a high deductible health
3 plan in conjunction with a health savings account to a
4 participating employee shall contribute _____ per cent per pay
5 period into the participating employee's health savings account
6 maintained in conjunction with a high deductible health plan
7 pursuant to this section.

8 (c) To ensure that employees are voluntarily electing, and
9 not being inappropriately directed, to choose a high deductible
10 health plan, each health maintenance organization that offers,
11 sells, or renews a high deductible health plan in conjunction
12 with a health savings account shall file with the commissioner a
13 report containing the health maintenance organization's
14 educational information and marketing materials regarding the
15 health plan and health savings account that may be offered by
16 the health maintenance organization. The insurance commissioner
17 shall receive any complaints from employees arising under this
18 subsection.

19 (d) If this section or any provision of this section
20 conflicts at any time with any federal law, then the federal law
21 shall prevail and this section or the relevant provisions of



1 this section shall become ineffective and invalid. The
2 ineffectiveness or invalidity of this section or any of its
3 provisions shall not affect any other provisions or applications
4 of this section, which shall be given effect without the invalid
5 provision or application, and to this end, the provisions of
6 this section are severable.

7 (e) Nothing in this section shall require a health
8 maintenance organization to provide a health savings account to
9 an employer or otherwise require a health maintenance
10 organization to serve as the primary custodian or trustee of the
11 health savings account.

12 (f) Nothing in this section shall be construed to affect
13 collectively bargained agreements.

14 (g) As used in this section, unless the context clearly
15 requires otherwise:

16 "Health savings account" means a health savings account
17 authorized under section 223 of the Internal Revenue Code of
18 1986, as amended.

19 "High deductible health plan" shall have the same meaning
20 as in section 223 of the Internal Revenue Code of 1986, as
21 amended.



1 "Prepaid health care plan" shall have the same meaning as
2 in section 393-3."

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

9 SECTION 6. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2024;
11 provided that this Act shall be repealed on June 30, 2029.

12

INTRODUCED BY: Carol Fulmer



S.B. NO. 3215

Report Title:

High Deductible Health Plans; Health Savings Accounts; Insurance

Description:

Authorizes the issuance of employer-sponsored high deductible health plans under certain conditions. Requires maintenance of health savings accounts in conjunction with high deductible health plans. Specifies that employers and insurers that buy or sell high deductible health plans remain subject to the Prepaid Health Care Act. Repeals 06/30/2029.

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

