

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. §431- , Hawaii Revised Statutes, being the section entitled "Premium waiver provisions; restrictions" as set forth in section 1 of Act 250, Session Laws of Hawaii 1987, is repealed, and Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§431: Premium waiver provisions; restrictions. (a) Whenever an insurance policy contains a provision or a rider for the waiver of premiums in the event of the total disability of the named insured, the waiver of premiums shall be applicable throughout the period of total disability or for the balance of the waiver period specified in the policy or the rider, whichever is shorter. To qualify for the premium waiver, the insured shall submit a certificate from a physician who is selected by the insured which attests to the insured's medical condition and states the period that the condition will last. If the period that the condition will last cannot be established with reasonable medical certainty, the physician shall state an opinion of the period during which the condition is likely to persist. If the insurer does not accept the insured's physician's diagnosis or estimate of the period that the condition will last, the insured will be examined by a second physician selected by the insurer at the insurer's expense. The insurer will accept the second physician's diagnosis and estimate of the period that the condition will last in order to determine total disability and waiver of premium benefits to be provided. The insured will be furnished with copies of all physicians' reports.

The insurer will also furnish the insured with an explanation of the insurer's decision regarding the total disability under the terms of the contract and the expected period it will last.

If the insured does not agree with the insurer's decision, the insured may appeal to the insurance commissioner within thirty days following receipt of the written notice of insurer's decision.

(b) When the insurer has determined there is total disability and the probable period that it will last, the insurer shall require further certification during the stated period of disability or probable disability only at its expense and not more often than once in any three calendar years, unless there is evidence of a change of circumstances that indicate a change in the medical condition of the insured.

(c) If a claim for premium waiver has been filed after expiration of the grace period specified in the insurance policy, and the qualifying disability has been proved, and the policy owner has demonstrated good faith and honest error justifying the late filing for premium waiver; the insurer shall refund premiums paid after the date the premium waiver would have been effective if the claim had been filed within the period specified in the policy for filing claims."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall upon its approval, take effect on July 1, 1989 only if H.B. No. 1894² in any form passed by the Legislature, Regular Session of 1989, becomes an Act.

(Approved June 16, 1989.)

Notes

1. Edited pursuant to HRS §23G-16.5.
2. Act 276, this volume.