

ACT 378

H.B. NO. 1906

A Bill for an Act Relating to the State Health Insurance Program.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER STATE HEALTH INSURANCE PROGRAM ACT

§ **-1 Findings and purpose.** (a) The legislature finds that despite the fact that Hawaii has the only statutorily mandated prepaid health care program in the country, as well as a broad-based medicaid program which provides an array of medical benefits to Hawaii’s lowest income level residents, there remain in the State uninsured “gap group individuals”. Available statistics consistently reveal that an estimated five per cent of the civilian population of this State, or 50,000 individuals, lack any form of medical insurance whatsoever and are therefore limited in access to medical care.

(b) These “gap group individuals” are characterized by one or more of the following conditions or factors contributing to lack of insurance or “medical indigency”:

- (1) They have too much income or too many assets to qualify for medicaid, but too little to afford private insurance;
- (2) They do not qualify for prepaid health care insurance coverage through employment;
- (3) They choose not to obtain health insurance; or
- (4) They are dependents, primarily children of insureds who are not covered by their parent’s, guardian’s, or spouse’s policies.

(c) The legislature further finds that it is a matter of compelling public interest to provide for the health and well-being of all the people of this State. This is also consistent with the health provisions of the Hawaii State Planning Act as set forth in section 226-20(a)(1), which establish as an objective the “fulfillment of basic individual health needs of the general public.” This objective is construed to include access to basic health insurance coverage. To responsibly carry out this objective, it is therefore appropriate that the legislature use innovative means to ensure that all residents, regardless of age, income, employment status, or any other factor, have access to health insurance coverage which will provide basic medical services necessary to sustain a healthy life.

(d) The purpose of this chapter is to establish a program within the department of health, funded through legislative appropriations, to ensure basic health insurance coverage is available for Hawaii residents who are medically uninsured and who are defined in section -2 as “gap group individuals”.

§ **-2 Definitions.** As used in this chapter unless otherwise indicated by the context:

“Gap group individuals” means medically uninsured persons who are residents of the State.

“Health care coverage” means contractually arranged medical, personal, or other services, including preventive services, education, case management, and outreach, provided to an eligible member.

“Health care contractor” means any medical group or organization which undertakes, under a prepaid health care program, to provide health care, or any nonprofit organization or insurer who undertakes, under a prepaid health care program, to defray or reimburse in whole or part, the expenses of health care.

“Medical indigence” means the status of a person who is uninsured or lacks medical insurance.

§ -3 **State health insurance program established.** There is established within the department of health the state health insurance program whose goals shall be to:

- (1) Subsidize health care coverage for gap group individuals, including but not necessarily limited to outpatient primary and preventive care;
- (2) Encourage the uninsured who can afford to participate in existing health plans to seek that coverage;
- (3) Discourage individuals who are already adequately insured from seeking benefits under the state health insurance program;
- (4) Assure that those persons who have the ability to pay for all or part of their coverage be appropriately assessed by the contractors on a sliding fee scale basis; and
- (5) Ensure that the state health insurance program is affordable to gap group individuals.

The program shall be funded by legislative appropriations made to the department of health.

§ -4 **Transfer of funds.** The department of health shall have the authority to utilize funds appropriated under this chapter to directly purchase services in accordance with chapter 42 when it is determined that such a purchase is more effective and cost efficient in meeting the goals of this chapter. The department of health shall also have the authority to transfer funds appropriated under this chapter to the department of human services. The department of human services may receive and apply such funds for the purpose of maximizing medical care services to gap group individuals under the medicaid program contained in the medicaid state plan. The departments of health and human services shall develop and implement an inter-agency working agreement necessary to carry out the purpose of this section.

§ -5 **Rulemaking authority.** The director of health shall adopt rules in accordance with chapter 91 which are necessary to carry out this chapter. The rules shall include, but need not be limited to:

- (1) Establishment of guidelines for the purchase of health care coverage from health care contractors by the department;
- (2) Establishment of specific health care services to be covered, limited, and excluded by the program, including preventive services, outreach, and education strategies designed to reach gap group individuals;
- (3) Establishment of eligibility requirements for participation in the program;
- (4) Development and implementation of an identification and notification process for eligible program participants;
- (5) Establishment of a payment schedule based on the person’s ability to pay;

- (6) Establishment of program participation criteria for health care contractors;
- (7) Establishment of monitoring and evaluative guidelines for the program;
- (8) Establishment of appeal procedures for denial of eligibility, disqualification from program participation, assessment of civil penalties, or other negative action; and
- (9) Establishment of procedures to exclude or remove from the program persons who drop individual or group coverage to obtain insurance.

§ -6 Reporting, continued funding. The department of health shall report to the legislature on or about October 1, 1989 on the progress made in implementation of this act, including:

- (1) Establishment of an advisory committee to review: the scope of the work to be done by a consultant, the input from the committee and the community to the consultant, and the schedule of work of the advisory committee;
- (2) Final scope of work for the consultant, selection of the consultant, and the consultant's workplan;
- (3) Involvement of the departments of labor, human services, and other departments needed to successfully develop the program;
- (4) Required data collection efforts to successfully develop the program.

The department of health, in collaboration with the health care contractors, shall submit reports to the legislature and the governor no later than twenty days prior to the convening of each and every legislative session regarding program activities and expenditures, needed resources, participant demographics, evaluations, and such other information as may be necessary to determine the usefulness of and continued need for the state health insurance program.

The purchase of insurance shall not proceed without the formal approval of the governor and a review by the legislature during the 1990 regular session. Implementation is predicated upon the successful completion of the consultant's reports and findings. The legislature, by concurrent resolution, may opt to withhold funding appropriated for implementation if not satisfied with the plan, provided that such a concurrent resolution must be passed within thirty days after completion of the implementation plan or March 1, 1990 whichever occurs last.

§ -7 Violation, penalty. Any person who violates this chapter or any rule adopted by the department of health pursuant to this chapter may be permanently disqualified from participation in the program, required to reimburse any benefits wrongfully obtained, and shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this section may be considered a civil action.

§ -8 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 2. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriation contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1989-1990 to be exceeded by \$4,000,000 or 0.17 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the need provided for by this Act.

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SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000, or so much thereof as may be necessary for fiscal year 1989-1990, for the purposes of this Act; provided that not more than \$1,000,000 may be released in fiscal year 1989-1990 for planning and designing a state health insurance program. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000,000, or so much thereof as may be necessary for fiscal year 1990-1991, for the purposes of this Act.

SECTION 4. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 26, 1989.)