

ACT 228

H.B. NO. 1134

A Bill for an Act Relating to Prepaid Health Care.

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

SECTION 1. The legislature finds that the health and well-being of Hawaii's residents and families are paramount. Consequently, for over thirty years, the Hawaii Prepaid Health Care Act has protected the welfare of the people of Hawaii, offering residents unparalleled access to health care benefits and services. The Hawaii Prepaid Health Care Act has accomplished this through various mandates, such as requiring employers who employ one or more full-time employees to provide health insurance, setting the standards for health care coverage in Hawaii, limiting the amount that employees must contribute to premiums, and requiring employees to accept coverage unless covered under another health insurance plan (e.g., a spouse's plan). This has resulted in Hawaii having robust health care plans, low uninsured rates, and some of the lowest premiums in the country. While Hawaii experiences some of the same issues relative to access, quality, and cost as other states across the country, the Hawaii Prepaid Health Care Act has ensured system stability throughout the State.

The legislature further finds that at the time the Hawaii Prepaid Health Care Act was enacted, the legislature anticipated future federal health care reform legislation. Thus, the Hawaii Prepaid Health Care Act included a termination clause in the event such federal legislation was passed. Section 393-51, Hawaii Revised Statutes, states:

This chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii.

The legislature further finds that in 1993, the newly-installed Clinton administration launched health care reform onto the national agenda. Concerned that the federal law would jeopardize the quality of health care that people enjoyed in Hawaii because of the Hawaii Prepaid Health Care Act, the legislature enacted Act 99, Session Laws of Hawaii 1994, which repeals the Hawaii Prepaid Health Care Act's termination clause upon the effective date of any federal act permitting an amendment of the Hawaii Prepaid Health Care Act.

While the Clinton health care reform did not materialize, national health care reform finally became a reality with the enactment of the federal Patient Protection and Affordable Care Act in 2010. Although the Patient Protection and Affordable Care Act generally provides for individual and employer health

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care coverage, it acknowledges the success of Hawaii's prepaid health care model by providing for the continuance of the Hawaii Prepaid Health Care Act in Section 1560(b) of the Patient Protection and Affordable Care Act, as follows:

Nothing in this title (or an amendment made by this title) shall be construed to modify or limit the application of the exemption for Hawaii's Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 et seq.) as provided for under section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)).

The legislature is supportive of the Patient Protection and Affordable Care Act and the efforts of the President and United States Congress to bring the nation closer to achieving universal health care. However, the legislature continues to believe that the Hawaii Prepaid Health Care Act provides superior benefits for the people of Hawaii, and the legislature is wary that current efforts to repeal or amend the federal Patient Protection and Affordable Care Act may jeopardize the Hawaii Prepaid Health Care Act. Therefore, the legislature believes it is imperative to eliminate all provisions for and references to the termination of the Hawaii Prepaid Health Care Act.

SECTION 2. Act 99, Session Laws of Hawaii 1994, is repealed.

SECTION 3. Chapter 393, part V, Hawaii Revised Statutes, is repealed.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 12, 2011.)