

## ACT 111

S.B. NO. 2340

A Bill for an Act Relating to Health Insurance.

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

SECTION 1. The legislature finds that the Patient Protection and Affordable Care Act of 2010 (“Affordable Care Act”), P.L. 111-148, has resulted in an estimated 20,000,000 Americans gaining health insurance coverage. The provisions under the Affordable Care Act made changes to private insurance that expanded coverage options, including permitting young adults to remain on their parents’ health insurance plans, requiring health insurance plans to cover people with preexisting health conditions, and prohibiting discrimination based on gender. According to a report from the United States Department of Health and Human Services, more than 6,000,000 uninsured young adults ages nineteen to twenty-five have gained health insurance coverage due to the Affordable Care Act. This is especially important because young adults were particularly likely to be uninsured before the law went into effect.

The legislature further finds that the future of the Affordable Care Act remains uncertain. The current Presidential administration campaigned on a promise to repeal the Affordable Care Act, and certain members of Congress have supported that approach, which could have widespread and devastating ramifications. The Urban Institute has estimated that repealing the Affordable Care Act without an adequate replacement plan that ensures affordable coverage would take health insurance coverage away from 29,800,000 people nationwide by 2019, more than doubling the total number of uninsured to 58,700,000.

The legislature concludes that, due to the uncertainty over the future of the Affordable Care Act, it is vital to preserve certain important aspects of the Act for residents of Hawaii.

Accordingly, the purpose of this Act is to ensure that the following benefits made available under the Affordable Care Act, which may not otherwise be available under the State’s Prepaid Health Care Act, remain available under Hawaii law:

- (1) Extending dependent coverage for adult children until the children turn twenty-six years of age;
- (2) Prohibiting health insurance entities from imposing a preexisting condition exclusion; and
- (3) Prohibiting health insurance entities from using an individual’s gender to determine premiums or contributions.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding three new sections to part I of article 10A to be appropriately designated and to read as follows:

**“§431:10A- Extension of dependent coverage.** An individual policy of accident and health or sickness insurance and a health insurer offering individual accident and health or sickness insurance coverage that provides dependent coverage of children shall continue to make that coverage available for an adult child until the child turns twenty-six years of age. Nothing in this section shall require a policy or health insurer to make coverage available for a child of a child receiving dependent coverage.

**§431:10A- Prohibition of preexisting condition exclusions.** (a) No individual policy of accident and health or sickness insurance issued or renewed in this State shall impose any preexisting condition exclusion.

(b) For purposes of this section, a “preexisting condition exclusion” means a limitation or exclusion of benefits, including a denial of coverage, based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under an individual policy of accident and health or sickness insurance, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day, and includes any condition.

The term “preexisting condition exclusion” includes any limitation or exclusion of benefits, including a denial of coverage, applicable to an individual as a result of information relating to an individual’s health status before the individual’s effective date of coverage (or if coverage is denied, the date of the denial) under an individual policy of accident and health or sickness insurance, such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual or a review of medical records relating to the pre-enrollment period.

**§431:10A- Prohibited discrimination in premiums or contributions.** No individual policy of accident and health or sickness insurance and no health insurer offering individual accident and health or sickness insurance coverage issued or renewed in this State shall require an individual, as a condition of enrollment or continued enrollment under the policy, to pay a premium or contribution based on the individual’s gender that is greater than the premium or contribution for a similarly situated individual of the opposite gender who is covered under the same policy or a substantially similar policy offered by the same insurer.”

SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended by adding three new sections to part II of article 10A to be appropriately designated and to read as follows:

**“§431:10A- Extension of dependent coverage.** A group policy of accident and health or sickness insurance and a health insurer offering group accident and health or sickness insurance coverage that provides dependent coverage of children shall continue to make that coverage available for an adult child until the child turns twenty-six years of age. Nothing in this section shall require a policy or health insurer to make coverage available for a child of a child receiving dependent coverage.

**§431:10A- Prohibition of preexisting condition exclusions.** (a) No group policy of accident and health or sickness insurance issued or renewed in this State shall impose any preexisting condition exclusion.

(b) For purposes of this section, a “preexisting condition exclusion” means a limitation or exclusion of benefits, including a denial of coverage, based

on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under a group policy of accident and health or sickness insurance, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day and includes any condition.

The term “preexisting condition exclusion” includes any limitation or exclusion of benefits, including a denial of coverage, applicable to an individual as a result of information relating to an individual’s health status before the individual’s effective date of coverage (or if coverage is denied, the date of the denial) under a group policy of accident and health or sickness insurance, such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

**§431:10A- Prohibited discrimination in premiums or contributions.** No group policy of accident and health or sickness insurance and no health insurer offering group accident and health or sickness insurance coverage issued or renewed in this State shall require an individual, as a condition of enrollment or continued enrollment under the policy, to pay a premium or contribution based on the individual’s gender that is greater than the premium or contribution for a similarly situated individual of the opposite gender who is covered under the same policy or a substantially similar policy offered by the same insurer.”

SECTION 4. Chapter 432, Hawaii Revised Statutes, is amended by adding three new sections to article 1 to be appropriately designated and to read as follows:

**“§432:1- Extension of dependent coverage.** Each individual or group hospital or medical service plan contract and each mutual benefit society offering individual or group hospital or medical service plan contracts that provide dependent coverage of children shall continue to make that coverage available for an adult child until the child turns twenty-six years of age. Nothing in this section shall require a plan contract to make coverage available for a child of a child receiving dependent coverage.

**§432:1- Prohibition of preexisting condition exclusions.** (a) No individual or group hospital or medical service plan contract issued or renewed in this State shall impose any preexisting condition exclusion.

(b) For purposes of this section, a “preexisting condition exclusion” means a limitation or exclusion of benefits, including a denial of coverage, based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under an individual or group hospital or medical service plan contract, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day and includes any condition.

The term “preexisting condition exclusion” includes any limitation or exclusion of benefits, including a denial of coverage, applicable to an individual as a result of information relating to an individual’s health status before the individual’s effective date of coverage (or if coverage is denied, the date of the denial) under an individual or group hospital or medical service plan contract, such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

**§432:1- Prohibited discrimination in premiums or contributions.** No individual or group hospital or medical service plan contract and no mutual benefit society offering individual or group hospital or medical service plan contracts issued or renewed in this State shall require an individual, as a condition of enrollment or continued enrollment under the plan contract, to pay a premium or contribution based on the individual's gender that is greater than the premium or contribution for a similarly situated individual of the opposite gender who is covered under the same plan contract or a substantially similar plan contract offered by the same mutual benefit society."

SECTION 5. Chapter 432D, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**"§432D- Extension of dependent coverage.** Each individual or group policy, contract, plan, or agreement and each health maintenance organization offering individual or group policies, contracts, plans, or agreements that provides dependent coverage of children shall continue to make that coverage available for an adult child until the child turns twenty-six years of age. Nothing in this section shall require a policy, contract, plan, or agreement to make coverage available for a child of a child receiving dependent coverage.

**§432D- Prohibition of preexisting condition exclusions.** (a) No individual or group health maintenance organization policy, contract, plan, or agreement issued or renewed in this State shall impose any preexisting condition exclusion.

(b) For purposes of this section, a "preexisting condition exclusion" means a limitation or exclusion of benefits, including a denial of coverage, based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under an individual or group health maintenance organization policy, contract, plan, or agreement, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day and includes any condition.

The term "preexisting condition exclusion" includes any limitation or exclusion of benefits, including a denial of coverage, applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage (or if coverage is denied, the date of the denial) under an individual or group health maintenance organization policy, contract, plan, or agreement, such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

**§432D- Prohibited discrimination in premiums or contributions.** No individual or group policy, contract, plan, or agreement and no health maintenance organization offering group or individual policies, contracts, plans, or agreements issued or renewed in this State shall require an individual, as a condition of enrollment or continued enrollment under a policy, contract, plan, or agreement, to pay a premium or contribution based on the individual's gender that is greater than the premium or contribution for a similarly situated individual of the opposite gender who is covered under the same policy, contract, plan, or agreement or a substantially similar policy, contract, plan, or agreement offered by the same health maintenance organization."

SECTION 6. New statutory material is underscored.<sup>1</sup>

**SECTION 7.** This Act shall take effect upon its approval.  
(Approved July 5, 2018.)

**Note**

1. Edited pursuant to HRS §23G-16.5.