
A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1 SECTION 1. The legislature finds that the Patient
2 Protection and Affordable Care Act of 2010 (Affordable Care Act)
3 has resulted in an estimated 20,000,000 Americans gaining health
4 insurance coverage. The provisions under the Affordable Care
5 Act that afforded coverage to the uninsured include the medicaid
6 expansion, health insurance marketplace coverage, and changes in
7 private insurance that permit young adults to remain on their
8 parent's health insurance plans and require health insurance
9 plans to cover people with preexisting health conditions.
10 According to a report from the United States Department of
11 Health and Human Services, 6,100,000 uninsured young adults ages
12 nineteen to twenty-five have gained health insurance coverage
13 thanks to the Affordable Care Act. This is especially important
14 as young adults were particularly likely to be uninsured before
15 the law went into effect.

16 The federal Department of Health and Human Services
17 recently reported that since the enactment of the Affordable



1 Care Act, 54,000 residents of Hawaii have gained health
2 insurance coverage. In addition to residents who would
3 otherwise be uninsured, hundreds of thousands of Hawaii
4 residents with employer, medicaid, individual market, or
5 medicare coverage have also benefited from new protections under
6 the Affordable Care Act. Even with the robust coverage of
7 Hawaii's Prepaid Health Care Act, the benefits of the Affordable
8 Care Act in Hawaii have been widespread. The Act expanded
9 medicaid eligibility and strengthened the program for those
10 already eligible. The State has saved millions in uncompensated
11 care costs and has been able to improve behavioral health
12 outcomes for various beneficiaries. For Hawaii residents,
13 individual market coverage is now dramatically better than
14 before the enactment of the Affordable Care Act.

15 Unfortunately, the future of the Affordable Care Act is now
16 uncertain. The new Presidential Administration campaigned on
17 the promise to repeal the Affordable Care Act. Republicans in
18 Congress have also backed the new President's promise to repeal
19 and replace the Affordable Care Act. On January 12, 2017,
20 Senate Republicans took their first major step toward repealing
21 the Affordable Care Act, when they approved a budget blueprint



1 that would allow Republicans to gut the Affordable Care Act
2 without the threat of a Democratic filibuster. On January 20,
3 2017, the President signed his first Executive Order, directing
4 federal agencies to waive enforcement of large swaths of the
5 law.

6 The repeal of the Affordable Care Act will have widespread
7 ramifications. According to recent data from the Urban
8 Institute, 86,000 fewer people in Hawaii would have health
9 insurance in 2019 if the Affordable Care Act is repealed.
10 States are poised to lose significant federal funds if
11 marketplace subsidies and the medicaid expansion end. For
12 Hawaii, a repeal of the Affordable Care Act means the loss of
13 \$47,000,000 in federal marketplace spending in 2019 and a loss
14 of \$532,000,000 between 2019 and 2028. Hawaii would also lose
15 \$306,000,000 in federal medicaid funding in 2019 and
16 \$3,700,000,000 between 2019 and 2028.

17 The legislature further finds that repealing the Affordable
18 Care Act would destabilize the individual insurance market, due
19 to a combination of several factors, including the pending loss
20 of subsidies, elimination of the requirement to buy health
21 insurance, and elimination of the requirement that insurers sell



1 to all consumers. Such factors will likely cause individual
2 insurance prices to rise and may cause healthier individuals to
3 drop health insurance coverage.

4 The Urban Institute estimates that repealing the Affordable
5 Care Act without an adequate replacement plan that ensures
6 affordable coverage would take health insurance coverage away
7 from 29,800,000 people nationwide by 2019, more than doubling
8 the total number of uninsured to 58,700,000.

9 As of January 2017, there is not yet a firm plan or
10 agreement regarding the future of the Affordable Care Act.
11 However, the new President has demanded Congress immediately
12 repeal and replace the Act. The legislature concludes that due
13 to the uncertainty over the Affordable Care Act, it is important
14 to preserve certain important aspects of the Act for residents
15 in Hawaii.

16 Accordingly, the purpose of this Act is to ensure certain
17 benefits under the Affordable Care Act, which may not otherwise
18 be available under the State's Prepaid Health Care Act, remain
19 available under Hawaii law, including:



- 1 (1) Preserving the individual mandate that requires
2 taxpayers to have qualified health insurance coverage
3 throughout the year or pay a penalty;
- 4 (2) Preserving the premium tax credit for individuals and
5 families with low or moderate income;
- 6 (3) Ensuring all health insurers, mutual benefit
7 societies, and health maintenance organizations in the
8 State, including health benefits plans under chapter
9 87A, Hawaii Revised Statutes, include ten essential
10 health care benefits, plus additional contraception
11 and breastfeeding coverage benefits;
- 12 (4) Extending dependent coverage for adult children until
13 the children turn twenty-six years of age;
- 14 (5) Prohibiting health insurance entities from imposing a
15 preexisting condition exclusion;
- 16 (6) Prohibiting health insurance entities from using an
17 individual's gender to determine premiums or
18 contributions; and
- 19 (7) Prohibiting health insurance entities from
20 discriminating with respect to participation against a



1 health care provider acting within the scope of that
2 provider's license or certification.

3 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 **"§235-A Minimal essential coverage.** (a) For each month
7 beginning after December 31, 2017, an individual shall ensure
8 that the individual, and any dependent of the individual, is
9 covered with minimum essential coverage for the month.

10 (b) If a taxpayer, or a dependent for whom the taxpayer is
11 liable under paragraph (2), fails to meet the requirement of
12 subsection (a) for one or more months, then a penalty shall be
13 imposed on the taxpayer in an amount determined pursuant to
14 subsection (c); provided that:

15 (1) The payment of any penalty imposed by this section
16 with respect to any month shall be included with a
17 taxpayer's return under section 235-92 for the taxable
18 year which includes that month; and

19 (2) If a penalty is imposed for any month on an individual
20 and the individual:



1 (A) Is a dependent of another taxpayer for the other
2 taxpayer's taxable year, the other taxpayer shall
3 be liable for the penalty; or

4 (B) Files a joint return for the taxable year, the
5 individual and the spouse of the individual shall
6 be jointly liable for such penalty.

7 (c) The amount of the penalty imposed by this section on
8 any taxpayer for any taxable year pursuant to subsection (b)
9 shall be equal to the sum of the monthly penalty amounts
10 determined under subsection (d) for months in the taxable year
11 during which one or more such failures occurred.

12 (d) The monthly penalty amount with respect to any
13 taxpayer for any month during which any failure described
14 pursuant to subsection (b) occurred is an amount equal to one-
15 twelfth of the greater of the following amounts:

16 (1) A flat rate of \$695; or

17 (2) 2.5 per cent of the excess of the taxpayer's household
18 income for the taxable year over the taxpayer's
19 applicable filing threshold, as determined under this
20 chapter, for the taxable year.



1 (e) If an individual has not attained the age of eighteen
2 as of the beginning of a month, the monthly penalty amount with
3 respect to such individual shall be equal to one-half of the
4 amount described in subsection (d).

5 (f) For every calendar year beginning after December 31,
6 2018, the amount under subsection (d)(1) shall be \$695,
7 increased by an amount equal to \$695 multiplied by the cost of
8 living adjustment determined pursuant to title 26 United States
9 Code section 1(f)(3).

10 (g) For purposes of this section:

11 "Household income" means, with respect to any taxpayer for
12 any taxable year, an amount equal to the sum of the adjusted
13 gross income, as determined under this chapter, of the taxpayer
14 plus the aggregate adjusted gross income, as determined under
15 this chapter, of all individuals for whom the taxpayer is
16 allowed a deduction under section 151 (relating to allowance of
17 deduction for personal exemptions) of the Internal Revenue Code
18 of 1986, as amended, for the taxable year and who were required
19 to file a tax return under section 235-92.

20 "Minimum essential coverage" has the same meaning as in
21 section 5000A(f) of the Internal Revenue Code of 1986, as



1 amended, and title 26 Code of Federal Regulations section
2 1.5000A-2, as of January 1, 2017.

3 **§235-B Coverage under a qualified health plan; income tax**
4 **credit.** (a) There shall be allowed to each qualified taxpayer
5 a qualified health plan coverage income tax credit that shall be
6 deductible from the qualified taxpayer's net income tax
7 liability, if any, imposed by this chapter for the taxable year
8 in which the credit is properly claimed.

9 (b) The qualified health plan coverage income tax credit
10 shall be equal to _____ per cent of the actual cost paid or
11 incurred by a qualified taxpayer in the taxable year to purchase
12 minimum essential coverage required under section 235-A for the
13 qualified taxpayer, the qualified taxpayer's spouse, or any
14 dependent of the qualified taxpayer; provided that the amount of
15 the credit shall not include any amounts paid or incurred by a
16 qualified taxpayer for minimum essential coverage purchased for
17 an individual who has health coverage under a government-
18 sponsored program or employer-sponsored plan. The total amount
19 claimed by a qualified taxpayer for the qualified health plan
20 coverage tax credit shall not exceed \$ _____ in any taxable
21 year.



1 (c) If the tax credit claimed by the qualified taxpayer
2 under this section exceeds the amount of the income tax payments
3 due from the qualified taxpayer, the excess of credit over
4 payments due shall be refunded to the qualified taxpayer;
5 provided that no refunds or payments on account of the tax
6 credit allowed by this section shall be made for amounts less
7 than \$1.

8 (d) Claims for the tax credit under this section,
9 including any amended claims, shall be filed on or before the
10 end of the twelfth month following the taxable year for which
11 the credit may be claimed. Failure to comply with this
12 subsection shall constitute a waiver of the right to claim the
13 credit.

14 (e) For purposes of this section:

15 "Family size" means the number of individuals for whom the
16 taxpayer is allowed a deduction under section 151 (relating to
17 allowance of deduction for personal exemptions) of the Internal
18 Revenue Code of 1986, as amended, for the taxable year.

19 "Household income" means, with respect to any taxpayer for
20 any taxable year, an amount equal to the sum of the adjusted
21 gross income, as determined under this chapter, of the taxpayer



1 plus the aggregate adjusted gross income, as determined under
2 this chapter, of all individuals for whom the taxpayer is
3 allowed a deduction under section 151 (relating to allowance of
4 deduction for personal exemptions) of the Internal Revenue Code
5 of 1986, as amended, for the taxable year and who were required
6 to file a tax return under section 235-92.

7 "Minimum essential coverage" means the same as in section
8 5000A(f) of the Internal Revenue Code of 1986, as amended, and
9 title 26 Code of Federal Regulations 1.5000A-2, as of January 1,
10 2017.

11 "Qualified taxpayer" means an individual:

12 (1) Who files an individual income tax return for the
13 taxable year;

14 (2) Who is not claimed or is not otherwise eligible to be
15 claimed as a dependent by another taxpayer for federal
16 or Hawaii state individual income tax purposes;

17 (3) Who has been physically present in the State for more
18 than nine months during the taxable year;

19 (4) Whose household income for the taxable year does not
20 exceed _____ per cent of the federal poverty
21 guideline for Hawaii, as most recently published by



1 the United States Department of Health and Human
2 Services for the taxpayer's family size; and
3 (5) Who, if married at the close of the taxable year,
4 files a joint return for the taxable year; provided
5 that this paragraph shall not apply to a married
6 taxpayer who is unable to file a joint return because
7 the taxpayer is a victim of domestic abuse or spousal
8 abandonment and is living apart from the taxpayer's
9 spouse at the time the taxpayer files the return."

10 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
11 amended by adding five new sections to article 10A to be
12 appropriately designated and to read as follows:

13 "**§431:10A- Essential health care benefits.** (a) Every
14 policy of accident and health or sickness insurance issued or
15 renewed in this State shall include at least the following
16 essential health care benefits:

- 17 (1) Ambulatory patient services;
18 (2) Emergency services;
19 (3) Hospitalization benefits;
20 (4) Pregnancy, maternity, and newborn care;



- 1 (5) Mental health and substance use disorder services,
2 including behavioral health treatment, mental and
3 behavioral health inpatient services, and substance
4 use disorder treatment;
- 5 (6) Prescription drug coverage;
- 6 (7) Rehabilitative and habilitative services and devices;
- 7 (8) Laboratory services;
- 8 (9) Preventive and wellness services and chronic disease
9 management; and
- 10 (10) Pediatric services, including oral and vision care.
- 11 (b) Policies of accident and health or sickness insurance
12 delivered or issued for delivery in this State shall also
13 include the following additional benefits:
- 14 (1) Contraceptive coverage, including:
- 15 (A) All federal Food and Drug Administration-approved
16 contraceptive methods, sterilization procedures,
17 and patient education and counseling, as
18 prescribed by a health care provider, for all
19 women with reproductive capacity; provided that a
20 policy or health insurer shall accommodate any
21 individual for whom a particular generic or brand



1 name drug would be medically inappropriate, as
2 determined by the individual's health care
3 provider, by establishing a mechanism for waiving
4 otherwise applicable cost-sharing requirements
5 for the brand or non-preferred brand version of
6 the drug; and

7 (B) Coverage for vasectomy and other federal Food and
8 Drug Administration-approved contraceptive
9 methods for men; and

10 (2) Breastfeeding coverage, including:

11 (A) Breastfeeding support;
12 (B) Breastfeeding counseling; and
13 (C) Equipment, including the coverage of a manual or
14 electric breast pump and associated equipment as
15 prescribed by an individual's health care
16 provider,
17 for the duration of breastfeeding;

18 provided that a health insurer shall not impose any cost-sharing
19 requirements, including copayments, coinsurance, or deductibles,
20 on a policyholder or individual with respect to the benefits
21 covered under this subsection.



1 (c) This section shall not apply to policies that provide
2 coverage for specified diseases or other limited benefit
3 coverage, as provided pursuant to section 431:10A-102.5.

4 **§431:10A- Extension of dependent coverage.** A group
5 accident and health or sickness insurance policy and a health
6 insurer offering group or individual accident and health or
7 sickness insurance coverage that provides dependent coverage of
8 children shall continue to make such coverage available for an
9 adult child until the child turns twenty-six years of age.
10 Nothing in this section shall require a policy or health insurer
11 to make coverage available for a child of a child receiving
12 dependent coverage.

13 **§431:10A- Prohibition of preexisting condition**
14 **exclusions.** (a) An accident and health or sickness insurance
15 policy issued or renewed in this State shall not impose any
16 preexisting condition exclusion.

17 (b) For purposes of this section, a "preexisting condition
18 exclusion" means a limitation or exclusion of benefits
19 (including a denial of coverage) based on the fact that the
20 condition was present before the effective date of coverage (or
21 if coverage is denied, the date of the denial) under a group or



1 individual accident and health or sickness insurance policy,
2 whether or not any medical advice, diagnosis, care, or treatment
3 was recommended or received before that day and includes any
4 condition.

5 The term "preexisting condition exclusion" includes any
6 limitation or exclusion of benefits (including a denial of
7 coverage) applicable to an individual as a result of information
8 relating to an individual's health status before the
9 individual's effective date of coverage (or if coverage is
10 denied, the date of the denial) under a group or individual
11 accident and health or sickness insurance policy, such as a
12 condition identified as a result of a pre-enrollment
13 questionnaire or physical examination given to the individual,
14 or review of medical records relating to the pre-enrollment
15 period.

16 **§431:10A- Prohibited discrimination in premiums or**
17 **contributions.** A group accident and health or sickness
18 insurance policy and a health insurer offering group or
19 individual accident and health or sickness insurance coverage
20 issued or renewed in this State shall not require an individual,
21 as a condition of enrollment or continued enrollment under the



1 policy, to pay a premium or contribution based on the
2 individual's gender that is greater than the premium or
3 contribution for a similarly situated individual of the opposite
4 gender who is covered under the same policy.

5 §431:10A- Nondiscrimination in health care. (a) A
6 group accident and health or sickness insurance policy and a
7 health insurer offering group or individual accident and health
8 or sickness insurance coverage issued or renewed in this State
9 shall not discriminate with respect to participation under the
10 plan or coverage against any health care provider who is acting
11 within the scope of that provider's license or certification
12 under applicable state law.

13 (b) This section shall not require that a group accident
14 and health or sickness insurance policy or a health insurer
15 offering group or individual accident and health or sickness
16 insurance coverage contract with any health care provider
17 willing to abide by the terms and conditions established by the
18 policy or health insurer.

19 (c) Nothing in this section shall be construed as
20 preventing a group accident and health or sickness insurance
21 policy or a health insurer offering group or individual accident



1 and health or sickness insurance from establishing varying
2 reimbursement rates based on quality or performance measures."

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

6 "§432:1- Essential health care benefits. (a) Every
7 hospital or medical service plan contract issued or renewed in
8 this State shall include at least the following essential health
9 care benefits:

- 10 (1) Ambulatory patient services;
- 11 (2) Emergency services;
- 12 (3) Hospitalization benefits;
- 13 (4) Pregnancy, maternity, and newborn care;
- 14 (5) Mental health and substance use disorder services,
15 including behavioral health treatment, mental and
16 behavioral health inpatient services, and substance
17 use disorder treatment;
- 18 (6) Prescription drug coverage;
- 19 (7) Rehabilitative and habilitative services and devices;
- 20 (8) Laboratory services;



1 (9) Preventive and wellness services and chronic disease
2 management; and

3 (10) Pediatric services, including oral and vision care.

4 (b) Hospital or medical service plan contracts delivered
5 or issued for delivery in this State shall also include the
6 following additional benefits:

7 (1) Contraceptive coverage, including:

8 (A) All federal Food and Drug Administration-approved
9 contraceptive methods, sterilization procedures,
10 and patient education and counseling, as
11 prescribed by a health care provider, for all
12 women with reproductive capacity; provided that a
13 plan contract or mutual benefit society shall
14 accommodate any individual for whom a particular
15 generic or brand name drug would be medically
16 inappropriate, as determined by the individual's
17 health care provider, by establishing a mechanism
18 for waiving otherwise applicable cost-sharing
19 requirements for the brand or non-preferred brand
20 version of the drug; and



1 (B) Coverage for vasectomy and other federal Food and
2 Drug Administration-approved contraceptive
3 methods for men; and

4 (2) Breastfeeding coverage, including:

5 (A) Breastfeeding support;
6 (B) Breastfeeding counseling; and
7 (C) Equipment, including the coverage of a manual or
8 electric breast pump and associated equipment as
9 prescribed by an individual's health care
10 provider,
11 for the duration of breastfeeding;

12 provided that a mutual benefit society shall not impose any
13 cost-sharing requirements, including copayments, coinsurance, or
14 deductibles, on a member or subscriber with respect to the
15 benefits covered under this subsection.

16 (c) This section shall not apply to policies that provide
17 coverage for specified diseases or other limited benefit
18 coverage, as provided pursuant to section 431:10A-102.5.

19 §432:1- Extension of dependent coverage. A group
20 hospital or medical service plan contract and a mutual benefit
21 society offering group or individual hospital and medical



1 service plan contracts that provides dependent coverage of
2 children shall continue to make such coverage available for an
3 adult child until the child turns twenty-six years of age.
4 Nothing in this section shall require a plan contract to make
5 coverage available for a child of a child receiving dependent
6 coverage.

7 **§432:1- Prohibition of preexisting condition exclusions.**

8 (a) A hospital or medical service plan contract issued or
9 renewed in this State shall not impose any preexisting condition
10 exclusion.

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

20 The term "preexisting condition exclusion" includes any
21 limitation or exclusion of benefits (including a denial of



1 coverage) applicable to an individual as a result of information
2 relating to an individual's health status before the
3 individual's effective date of coverage (or if coverage is
4 denied, the date of the denial) under a group or individual
5 hospital and medical service plan contract, such as a condition
6 identified as a result of a pre-enrollment questionnaire or
7 physical examination given to the individual, or review of
8 medical records relating to the pre-enrollment period.

9 **§432:1- Prohibited discrimination in premiums or**
10 **contributions.** A group hospital or medical service plan
11 contract and a mutual benefit society offering group or
12 individual hospital and medical service plan contracts issued or
13 renewed in this State shall not require an individual, as a
14 condition of enrollment or continued enrollment under the plan
15 contract, to pay a premium or contribution based on the
16 individual's gender that is greater than the premium or
17 contribution for a similarly situated individual of the opposite
18 gender who is covered under the same plan contract.

19 **§432:1- Nondiscrimination in health care.** (a) A group
20 hospital or medical service plan contract and a mutual benefit
21 society offering group or individual hospital and medical



1 service plan contracts issued or renewed in this State shall not
2 discriminate with respect to participation under the plan
3 contract against any health care provider who is acting within
4 the scope of that provider's license or certification under
5 applicable state law.

6 (b) This section shall not require that a group hospital
7 or medical service plan contract or a mutual benefit society
8 offering group or individual hospital and medical service plan
9 contracts contract with any health care provider willing to
10 abide by the terms and conditions established by the plan
11 contract or mutual benefit society.

12 (c) Nothing in this section shall be construed as
13 preventing a group hospital or medical service plan contract or
14 a mutual benefit society offering group or individual hospital
15 and medical service plan contracts from establishing varying
16 reimbursement rates based on quality or performance measures."

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

20 "§432D- Essential health care benefits. (a) Every
21 health maintenance organization policy, contract, plan, or



1 agreement issued or renewed in this State shall include at least
2 the following essential health care benefits:

- 3 (1) Ambulatory patient services;
- 4 (2) Emergency services;
- 5 (3) Hospitalization benefits;
- 6 (4) Pregnancy, maternity, and newborn care;
- 7 (5) Mental health and substance use disorder services,
8 including behavioral health treatment, mental and
9 behavioral health inpatient services, and substance
10 use disorder treatment;
- 11 (6) Prescription drug coverage;
- 12 (7) Rehabilitative and habilitative services and devices;
- 13 (8) Laboratory services;
- 14 (9) Preventive and wellness services and chronic disease
15 management; and
- 16 (10) Pediatric services, including oral and vision care.

17 (b) Every health maintenance organization policy,
18 contract, plan, or agreement delivered or issued for delivery in
19 this State shall also include the following additional benefits:

- 20 (1) Contraceptive coverage, including:



- 1 (A) All federal Food and Drug Administration-approved
- 2 contraceptive methods, sterilization procedures,
- 3 and patient education and counseling, as
- 4 prescribed by a health care provider, for all
- 5 women with reproductive capacity; provided that a
- 6 health maintenance organization shall accommodate
- 7 any individual for whom a particular generic or
- 8 brand name drug would be medically inappropriate,
- 9 as determined by the individual's health care
- 10 provider, by establishing a mechanism for waiving
- 11 otherwise applicable cost-sharing requirements
- 12 for the brand or non-preferred brand version of
- 13 the drug; and
- 14 (B) Coverage for vasectomy and other federal Food and
- 15 Drug Administration-approved contraceptive
- 16 methods for men; and
- 17 (2) Breastfeeding coverage, including:
- 18 (A) Breastfeeding support;
- 19 (B) Breastfeeding counseling; and
- 20 (C) Equipment, including the coverage of a manual or
- 21 electric breast pump and associated equipment as



1 prescribed by an individual's health care
2 provider,
3 for the duration of breastfeeding;
4 provided that a health maintenance organization shall not impose
5 any cost-sharing requirements, including copayments,
6 coinsurance, or deductibles, on an enrollee or subscriber with
7 respect to the benefits covered under this subsection.

8 (c) This section shall not apply to policies that provide
9 coverage for specified diseases or other limited benefit
10 coverage, as provided pursuant to section 431:10A-102.5.

11 §432D- Extension of dependent coverage. A group
12 contract and a health maintenance organization offering group or
13 individual policies, contracts, plans, or agreements that
14 provides dependent coverage of children shall continue to make
15 such coverage available for an adult child until the child turns
16 twenty-six years of age. Nothing in this section shall require
17 a policy, contract, plan, or agreement to make coverage
18 available for a child of a child receiving dependent coverage.

19 §432D- Prohibition of preexisting condition exclusions.
20 (a) A health maintenance organization policy, contract, plan,



1 or agreement issued or renewed in this State shall not impose
2 any preexisting condition exclusion.

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

12 The term "preexisting condition exclusion" includes any
13 limitation or exclusion of benefits (including a denial of
14 coverage) applicable to an individual as a result of information
15 relating to an individual's health status before the
16 individual's effective date of coverage (or if coverage is
17 denied, the date of the denial) under a group or individual
18 health maintenance organization policy, contract, plan, or
19 agreement, such as a condition identified as a result of a pre-
20 enrollment questionnaire or physical examination given to the



1 individual, or review of medical records relating to the pre-
2 enrollment period.

3 **§432D- Prohibited discrimination in premiums or**
4 **contributions.** A group contract and a health maintenance
5 organization offering group or individual policies, contracts,
6 plans, or agreements issued or renewed in this State shall not
7 require an individual, as a condition of enrollment or continued
8 enrollment under a policy, contract, plan, or agreement, to pay
9 a premium or contribution based on the individual's gender that
10 is greater than the premium or contribution for a similarly
11 situated individual of the opposite gender who is covered under
12 the same policy, contract, plan, or agreement.

13 **§432D- Nondiscrimination in health care.** (a) A group
14 contract and a health maintenance organization offering group or
15 individual policies, contracts, plans, or agreements issued or
16 renewed in this State shall not discriminate with respect to
17 participation under the policy, contract, plan, or agreement
18 against any health care provider who is acting within the scope
19 of that provider's license or certification under applicable
20 State law.



1 (b) This section shall not require that a group contract
2 or a health maintenance organization offering group or
3 individual policies, contracts, plans, or agreements contract
4 with any health care provider willing to abide by the terms and
5 conditions established by the group contract or health
6 maintenance organization.

7 (c) Nothing in this section shall be construed as
8 preventing a group contract or a health maintenance organization
9 offering group or individual policies, contracts, plans, or
10 agreements from establishing varying reimbursement rates based
11 on quality or performance measures."

12 SECTION 6. Notwithstanding any other law to the contrary,
13 the requirements for essential health care benefits, extension
14 of dependent coverage, and prohibition of preexisting condition
15 exclusions required under sections 3, 4, and 5 of this Act shall
16 apply to all health benefits plans under chapter 87A, Hawaii
17 Revised Statutes, issued, renewed, modified, altered, or amended
18 on or after the effective date of this Act.

19 SECTION 7. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 8. New statutory material is underscored.

4 SECTION 9. This Act shall take effect on July 1, 2050;
5 provided that the new section 235-A in chapter 235, Hawaii
6 Revised Statutes, on minimal essential coverage, added by
7 section 2 of this Act shall be repealed on June 30, 2021.



Report Title:

Health Insurance; Individual Mandate; Tax Credit; Essential Benefits; Covered Services; Extended Coverage; Preexisting Conditions; Nondiscrimination

Description:

Ensures certain benefits under the federal Affordable Care Act are preserved under Hawaii law, including: preserving the individual health insurance mandate for taxpayers; preserving the premium tax credit for individuals and families with low or moderate income; requiring all health insurance entities, including health benefits plans under chapter 87A, HRS, to include ten essential health care benefits, plus additional contraception and breastfeeding coverage benefits; extending dependent coverage for adult children until the children turn twenty-six years of age; prohibiting health insurance entities from imposing a preexisting condition exclusion; prohibiting health insurance entities from using an individual's gender to determine premiums or contributions; and prohibiting health insurance entities from discriminating with respect to participation against a health care provider acting within the scope of that provider's license or certification. Effective 7/1/2050. Individual mandate requirement repeals 6/30/2021. (SD2)

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

