
A BILL FOR AN ACT

RELATING TO THE MEDICAID SUSTAINABILITY PROGRAM.

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

1 SECTION 1. The legislature finds that the healthcare
2 system in the State faces major financial challenges in ensuring
3 access to quality healthcare for Hawaii residents due to the
4 coronavirus disease 2019 (COVID-19) pandemic and related
5 financial and budgetary pressures. Additional federal funding
6 to help financially sustain Hawaii's healthcare system and
7 medicaid program may be accessed through a provider fee.

8 Provider fees are used in forty-nine states and the
9 District of Columbia as a means of drawing down federal funds to
10 sustain state medicaid programs due to rising state budget
11 deficits, increasing health care costs, and expanding medicaid
12 enrollment. Of these, sixteen states use health insurer
13 provider fees to draw down federal funds.

14 The legislature further finds that medicaid is jointly
15 financed by federal and state governments by statutory formula.
16 The federal government pays between fifty per cent and seventy-
17 four per cent of medicaid costs incurred by a state for care



1 delivered to its medicaid beneficiaries. Federal assistance
2 percentages vary by state, with states that have lower per
3 capita incomes receiving higher federal matching rates. Under
4 federal rules, the state share must be paid through public funds
5 that are not federal funds.

6 Provider fees, which are collected from specific categories
7 of health care providers, may be imposed on different classes of
8 health care services, including the revenue of health insurers.

9 The legislature also finds that, in Hawaii, a medicaid
10 sustainability fee assessed on health insurers would help
11 guarantee access to critical medicaid benefits, such as
12 supportive housing, behavioral health, vaccinations, preventive
13 health, primary care, and home- and community-based services at
14 a time when constraints on the State's budget due to the
15 COVID-19 pandemic may force reductions in payments. As such,
16 the provider fee would help preserve access to health care for
17 the medicaid population, which would benefit health insurers in
18 the State. Medicaid coverage helps reduce uncompensated care
19 costs that lead to higher costs for health care insurance
20 premiums. Medicaid helps sustain the State's entire healthcare
21 system as a whole.



1 The purpose of this Act is to ensure access to health care
2 for medicaid recipients by:

3 (1) Establishing a medicaid sustainability fee assessed on
4 health insurers;

5 (2) Establishing a medicaid sustainability program special
6 fund to receive money from the medicaid sustainability
7 fee and federal medicaid matching funds; and

8 (3) Providing for the use of moneys in the medicaid
9 sustainability program special fund.

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 **"CHAPTER**

14 **MEDICAID SUSTAINABILITY PROGRAM**

15 **§ -1 Title.** This chapter shall be known and may be
16 cited as the "Medicaid Sustainability Program Act".

17 **§ -2 Findings and declaration of necessity.** It is the
18 intent of the legislature to establish a medicaid sustainability
19 program that would assess a medicaid fee on health insurers,
20 establish a special fund within the state treasury to receive
21 revenue from the medicaid sustainability fee to be administered



1 by the department, and use the revenue from the fee and
2 associated federal medicaid matching funds to fund healthcare
3 services covered under medicaid and for other purposes as set
4 forth in this chapter.

5 **§ -3 Definitions.** As used in this chapter:

6 "Department" means the department of human services.

7 "Fiscal year" means a twelve-month period from July 1 of a
8 particular calendar year to June 30 of the following calendar
9 year, inclusive.

10 "Health insurer" means a self-insured plan, a group health
11 plan as defined in section 607(1) of the Employee Retirement
12 Income Security Act of 1974, a health service benefit plan, a
13 mutual benefit society, a health maintenance organization, a
14 managed care organization, or other party that is, by statute,
15 contract, or agreement, legally responsible for payment of a
16 claim for a health care item or service. "Health insurer" does
17 not include not-for-profit health plans.

18 "Member month" means the total number of individuals for
19 whom the health insurer has recognized revenue for one month.
20 If revenue is for only part of a month for an individual, a
21 prorated partial member month may be counted. Member months do



1 not include individuals enrolled in short-term medical,
2 noncomprehensive medical, specified disease, limited benefit,
3 accident only, accidental death and dismemberment, disability
4 income, long-term care, medicare supplemental, stand-alone
5 dental, dental, pharmacy benefit manager, medicare, medicare
6 advantage, medicare part D, vision, prescription, TRICARE, other
7 federal insurance, and other individual medical insurance.

8 **§ -4 Medicaid sustainability program special fund. (a)**

9 There is established in the state treasury the medicaid
10 sustainability program special fund, to be administered by the
11 department, into which shall be deposited all moneys collected
12 under this chapter.

13 (b) Moneys in the medicaid sustainability program special
14 fund shall consist of:

- 15 (1) All revenue received by the department from the
16 medicaid sustainability fee;
17 (2) All federal medicaid funds received by the department
18 as a result of matching expenditures made with the
19 medicaid sustainability fee;
20 (3) Any interest or penalties levied in conjunction with
21 the administration of this chapter; and



(4) Any designated appropriations, federal funds,
donations, gifts, or moneys from any other sources.

(c) Moneys in the medicaid sustainability program special
fund shall be used exclusively to fund healthcare services
covered under medicaid and operations to support the
administration of the medicaid program.

§ -5 Medicaid sustainability fee. (a) Effective
July 1, 2021, or the effective date of any necessary federal
approvals, whichever date is later, the department shall charge
and collect provider fees, to be known as the medicaid
sustainability fee, on health insurers.

(b) The medicaid sustainability fee shall be based on the
number of member months of health insurers located within this
State, during the year ending December 31 of the preceding year.

(c) The department shall assess fees based on four tiers
of member months as follows:

(1) Tier one is more than zero up to 75,000 member months;

(2) Tier two is more than 75,000 up to 375,000 member
months;

(3) Tier three is more than 375,000 up to 500,000 member
months; and



1 (4) Tier four is more than 500,000 up to 4,000,000 member
2 months.

3 (d) The department shall adopt rules on the medicaid
4 sustainability fees. The fees may be assessed up to \$12 for
5 tier one per medicaid member month and up to \$15 for tier two
6 per medicaid member month; and up to \$1.00 for tier one per non-
7 medicaid member month.

8 (e) The department may modify the fees assessed for the
9 medicaid sustainability program; provided that the modification
10 is necessary to obtain federal waiver approval consistent with
11 the requirements of 42 Code of Federal Regulations section
12 433.68(e)(2).

13 **§ -6 Medicaid sustainability fee assessments.** (a)
14 Health insurers shall pay the medicaid sustainability fee to the
15 department in accordance with this chapter. The fee shall be
16 divided and paid in twelve equal installments on a monthly
17 basis.

18 (b) The department shall collect, and each health insurer
19 shall pay, the medicaid sustainability fee not later than the
20 thirtieth day after the end of each calendar month.



1 **§ -7 Federal approval.** The department shall seek
2 waivers and any additional approvals from the Centers for
3 Medicare and Medicaid Services that may be necessary to
4 implement the medicaid sustainability program.

5 **§ -8 Penalties for failure to pay the medicaid**
6 **sustainability fee.** If a health insurer fails to pay the full
7 amount of any medicaid sustainability fee when due, the health
8 insurer shall pay a penalty equal to prime, plus two per cent,
9 of the fee that was not paid when due. Any subsequent payments
10 shall be credited first to unpaid fee amounts, beginning with
11 the most delinquent installment, rather than to the penalty or
12 interest amounts. The department may waive the penalties of
13 this section for reasonable cause.

14 **§ -9 Special designation of medicaid sustainability**
15 **program special fund.** Notwithstanding section 37-53, and any
16 law or any administrative rule to the contrary, the specific
17 purposes set out in section -4(c) are established as being
18 the exclusive uses of the medicaid sustainability program
19 special fund. The medicaid sustainability program special fund
20 shall not be used for any other purposes, notwithstanding any
21 authority granted to the governor or any other state official by



1 any other statutory provisions relating to the allocation or
2 reallocation of funds."

3 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Except as provided in this section, and
6 notwithstanding any other law to the contrary, from time to
7 time, the director of finance, for the purpose of defraying the
8 prorated estimate of central service expenses of government in
9 relation to all special funds, except the:

10 (1) Special out-of-school time instructional program fund
11 under section 302A-1310;

12 (2) School cafeteria special funds of the department of
13 education;

14 (3) Special funds of the University of Hawaii;

15 (4) State educational facilities improvement special fund;

16 (5) Convention center enterprise special fund under
17 section 201B-8;

18 (6) Special funds established by section 206E-6;

19 (7) Aloha Tower fund created by section 206J-17;

20 (8) Funds of the employees' retirement system created by
21 section 88-109;



- 1 (9) Hawaii hurricane relief fund established under chapter
2 431P;
- 3 (10) Hawaii health systems corporation special funds and
4 the subaccounts of its regional system boards;
- 5 (11) Tourism special fund established under section
6 201B-11;
- 7 (12) Universal service fund established under section
8 269-42;
- 9 (13) Emergency and budget reserve fund under section
10 328L-3;
- 11 (14) Public schools special fees and charges fund under
12 section 302A-1130;
- 13 (15) Sport fish special fund under section 187A-9.5;
- 14 [+](16)[+]Neurotrauma special fund under section 321H-4;
- 15 [+](17)[+]Glass advance disposal fee established by section
16 342G-82;
- 17 [+](18)[+]Center for nursing special fund under section
18 304A-2163;
- 19 [+](19)[+]Passenger facility charge special fund established by
20 section 261-5.5;



1 [+] (20) [+] Solicitation of funds for charitable purposes special
2 fund established by section 467B-15;
3 [+] (21) [+] Land conservation fund established by section 173A-5;
4 [+] (22) [+] Court interpreting services revolving fund under
5 section 607-1.5;
6 [+] (23) [+] Trauma system special fund under section 321-22.5;
7 [+] (24) [+] Hawaii cancer research special fund;
8 [+] (25) [+] Community health centers special fund;
9 [+] (26) [+] Emergency medical services special fund;
10 [+] (27) [+] Rental motor vehicle customer facility charge special
11 fund established under section 261-5.6;
12 [+] (28) [+] Shared services technology special fund under section
13 27-43;
14 [+] (29) [+] Automated victim information and notification system
15 special fund established under section 353-136;
16 [+] (30) [+] Deposit beverage container deposit special fund under
17 section 342G-104;
18 [+] (31) [+] Hospital sustainability program special fund under
19 [+] section 346G-4[+];
20 [+] (32) [+] Nursing facility sustainability program special fund
21 under [+] section 346F-4[+];



1 [+] (33) [+] Hawaii 3R's school improvement fund under section
2 302A-1502.4;
3 [+] (34) [+] After-school plus program revolving fund under section
4 302A-1149.5; ~~and~~
5 [+] (35) [+] Civil monetary penalty special fund under section
6 321-30.2[7]; and
7 (36) Medicaid sustainability program special fund under
8 section -4,
9 shall deduct five per cent of all receipts of all other special
10 funds, which deduction shall be transferred to the general fund
11 of the State and become general realizations of the State. All
12 officers of the State and other persons having power to allocate
13 or disburse any special funds shall cooperate with the director
14 in effecting these transfers. To determine the proper revenue
15 base upon which the central service assessment is to be
16 calculated, the director shall adopt rules pursuant to chapter
17 91 for the purpose of suspending or limiting the application of
18 the central service assessment of any fund. No later than
19 twenty days prior to the convening of each regular session of
20 the legislature, the director shall report all central service
21 assessments made during the preceding fiscal year."



SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each special fund, except the:

(1) Special out-of-school time instructional program fund under section 302A-1310;

(2) School cafeteria special funds of the department of education;

(3) Special funds of the University of Hawaii;

(4) State educational facilities improvement special fund;

(5) Special funds established by section 206E-6;

(6) Aloha Tower fund created by section 206J-17;

(7) Funds of the employees' retirement system created by section 88-109;

(8) Hawaii hurricane relief fund established under chapter 431P;

(9) Convention center enterprise special fund established under section 201B-8;

(10) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;

(11) Tourism special fund established under section 201B-11;



1 (12) Universal service fund established under section
2 269-42;
3 (13) Emergency and budget reserve fund under section
4 328L-3;
5 (14) Public schools special fees and charges fund under
6 section 302A-1130;
7 (15) Sport fish special fund under section 187A-9.5;
8 [+] (16) [+] Neurotrauma special fund under section 321H-4;
9 [+] (17) [+] Center for nursing special fund under section
10 304A-2163;
11 [+] (18) [+] Passenger facility charge special fund established by
12 section 261-5.5;
13 [+] (19) [+] Court interpreting services revolving fund under
14 section 607-1.5;
15 [+] (20) [+] Trauma system special fund under section 321-22.5;
16 [+] (21) [+] Hawaii cancer research special fund;
17 [+] (22) [+] Community health centers special fund;
18 [+] (23) [+] Emergency medical services special fund;
19 [+] (24) [+] Rental motor vehicle customer facility charge
20 special fund established under section 261-5.6;



[+](25)[+]Shared services technology special fund under section
27-43;

[+](26)[+]Nursing facility sustainability program special fund
established pursuant to [+]section 346F-4[+];

[+](27)[+]Automated victim information and notification system
special fund established under section 353-136;

[+](28)[+]Hospital sustainability program special fund under
[+]section 346G-4[+]; ~~and~~

[+](29)[+]Civil monetary penalty special fund under section
321-30.2[-]; and

(30) Medicaid sustainability program special fund under
section -4,

shall be responsible for its pro rata share of the
administrative expenses incurred by the department responsible
for the operations supported by the special fund concerned."

SECTION 5. There is appropriated out of the medicaid
sustainability program special fund the sum of \$100,000,000 or
so much thereof as may be necessary for fiscal year 2021-2022
and the same sum or so much thereof as may be necessary for
fiscal year 2022-2023 for the purposes of the medicaid
sustainability program.



1 The sums appropriated shall be expended by the department
2 of human services for the purposes of this Act.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2050, and
6 shall be repealed on December 31, 2023; provided that
7 section -4, Hawaii Revised Statutes, in section 2 of this Act
8 and sections 3 and 4 of this Act shall be repealed on June 30,
9 2024.



Report Title:

Medicaid Sustainability Program; Appropriation

Description:

Establishes the Medicaid Sustainability Program for 2 years.
Appropriates funds out of the Medicaid Sustainability Program
Special Fund for fiscal years 2021-2022 and 2022-2023. Sunsets
on 12/31/2023. Effective 7/1/2050. (SD2)

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