

ACT 120

H.B. NO. 2224

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes, is amended to read as follows:

“§431:2-201.5 Conformity to federal law. (a) The provisions of Title 42 United States Code section 300gg, et seq., as they relate to group and individual health insurance shall apply to title 24, except:

- (1) Where state law provides greater health benefits or coverage than Title 42 United States Code section 300gg, et seq., state law shall be applicable; and
- (2) This section shall not apply to or affect life insurance, endowment, or annuity contracts, or any supplemental contract thereto, described in section 431:10A-101(4).

(b) The following definitions shall be used when applying Title 42 United States Code section 300gg, et seq.:

“Employee” means an employee who works on a full-time basis with a normal workweek of twenty hours or more.

“Group health issuer” means all persons offering health insurance coverage to any group or association, but shall not include those persons offering benefits exempted from Title I of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 under sections 732(c) and 733(c) of Title I of the Employee Retirement Income Security Act of 1974 and sections 2747 and 2791(c) of the Public Health Service Act.

“Qualifying event” means the date of issuance of a general excise tax license, the loss of a job, a reduction in hours of work, or the exhaustion of the federal Consolidated Omnibus Budget Reconstruction Act continuation coverage that results in a loss of health care coverage.

“Self-employed individual” means a person operating the person’s own business, whether as a sole proprietorship or in any other legally recognized manner in which a person may operate the person’s own business, who has a general excise tax license for that business, and who is registered or licensed by the department of commerce and consumer affairs for that business.

“Small employer” means an employer who employs between one and no more than fifty employees.

(c) All group health issuers shall offer all small group health plans to all small employers whose employees live, work, or reside in the group health issuer’s service areas; provided that ~~the~~:

- (1) The commissioner may exempt a group health issuer if the commissioner determines that the group health issuer does not have the capacity to deliver services adequately to enrollees of additional groups given its obligation to existing employer groups; and ~~provided further that the~~
- (2) The commissioner ~~shall~~ may exempt from this subsection group health plans offered to small employers that employ only one employee, if the

group health issuer offers the small employer groups at least one small group health plan that meets the requirements of chapter 393, and upon the determination by the commissioner that the group health issuer has the capacity to adequately deliver services to enrollees of the additional groups, subject to its obligations to existing employer groups.

(d) Subject to subsection (e)(1), beginning September 1, 2008, and annually thereafter, all group health issuers shall offer small group health plans to self-employed individuals who live, work, or reside in the group health issuer's service areas; provided that the commissioner may exempt a group health issuer if the commissioner determines that the group health issuer does not have the capacity to deliver services adequately to enrollees of additional groups given its obligation to existing employer groups.

(e) Group health issuers may limit periods of enrollment for self-employed individuals to a minimum of thirty calendar days; provided that:

- (1) Self-employed individuals who experience a qualifying event shall enroll with a group health issuer within thirty days of the qualifying event; and
- (2) Group health issuers shall be allowed to impose a one-year waiting period against self-employed individuals who terminate coverage for any reason. If a self-employed individual terminates coverage and a one-year waiting period is imposed against the individual, a group health issuer need not reenroll the individual until the period of enrollment following the one-year waiting period.

~~(f)~~ (f) A group health issuer shall be prohibited from imposing any preexisting condition exclusion.

~~(e)~~ (g) The commissioner may adopt rules to implement, clarify, or conform title 24 to Title 42 United States Code section 300gg, et seq.

~~(f)~~ (h) The adoption of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, for the purposes of title 24 is not an adoption for any purposes for income taxes under chapter 235.

~~(g)~~ (i) The State shall have jurisdiction over any matter that Title 42 United States Code section 300gg, et seq., permits, including jurisdiction over enforcement.

~~(h)~~ (j) As used in this section, "small group health plans" means the medical plans currently offered, advertised, or marketed by a group health issuer for small employers."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2008, and shall be repealed on July 1, 2013.

(Approved May 28, 2008.)