

## ACT 103

S.B. NO. 917

A Bill for an Act Relating to Third Party Liability for Medicaid.

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

SECTION 1. The Deficit Reduction Act of 2005, P.L. 109-171, made a number of amendments to Section 1902 of the Social Security Act intended to strengthen states' ability to identify and collect from liable third party payers.

The purpose of this Act is to make necessary amendments to state laws to comply with the federal amendments.

SECTION 2. Chapter 431L, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§431L- Insurer requirements.** Any health insurer as identified in section 431L-1 shall:

- (1) Provide, with respect to individuals who are eligible for, or are provided, medical assistance under Title 42 United States Code Section 1396a (Section 1902 of the Social Security Act), as amended, upon the request of the State, information to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage that is or was provided by the health insurer, including the name, address, and identifying number of the plan in a manner prescribed by the State;
- (2) Accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for a health care item or service for which payment has been made for medical assistance under Title 42 United States Code Section 1396a (Section 1902 of the Social Security Act);
- (3) Respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service; and
- (4) Agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:
  - (A) The claim is submitted by the State within the three-year period beginning on the date on which the health care item or service was furnished; and
  - (B) Any action by the State to enforce its rights with respect to the claim is commenced within six years of the State's submission of the claim.”

SECTION 3. Section 431L-1, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§431L-1]] Insurers prohibited from taking medicaid status into account.~~** Any health insurer (including a self-insured plan, a group health plan~~;~~ as defined in ~~[section]~~ Section 607(1) of the Employee Retirement Income Security Act of 1974, a health service benefit plan, a mutual benefit society, a fraternal benefit society ~~[and]~~, a health maintenance organization~~]~~, a managed care organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service) is prohibited, in enrolling an individual or in making any payments for benefits to the individual or on the individual’s behalf, from taking into account that the individual is eligible for or is provided medical assistance under Title 42 [U.S.C. section] United States Code Section 1396a (Section 1902 of the Social Security Act) herein referred to as medicaid, for this State, or any other state.”

SECTION 4. Section 431L-2, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§431L-2]] State’s right to third party payments.~~** To the extent that payment has been made under the state plan for medical assistance for health care items or services furnished to an individual in any case where ~~[a third]~~ another party has a legal liability to make payment for such assistance, ~~[the State has in effect laws under which, to the extent that payment has been made under the state plan for medical assistance for health care items or services furnished to an individual,]~~ the State is considered to have acquired the rights of ~~[such]~~ the individual to payment by ~~[any]~~ the other party for ~~[such]~~ those health care items or services.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 9, 2009.)

#### Note

1. Edited pursuant to HRS §23G-16.5.