HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

# H.B. NO. 2901

# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

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

SECTION 1. Section 431:10C-302, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to the motor vehicle insurance coverages described in section 431:10C-301, every insurer issuing a motor vehicle insurance policy shall make available to the insured the following optional insurance under the following conditions. Every insurer issuing a commercial motor vehicle insurance policy shall make available to the insured the following optional insurance, except for those benefits under paragraphs (4), (5), (9), (10), and (11) under the following conditions:

(1) At the option of the insured, provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles, including but not limited to collision and comprehensive deductibles of $50, $100, $250, $500, $1,000, $1,500, and $2,000, at appropriately reduced premium rates, as the commissioner, by rule, shall provide;

(2) At the option of the insured, compensation to the insured, the insured's spouse, any dependents, or any occupants of the insured's vehicle for damages not covered by personal injury protection benefits;

(3) Additional coverages and benefits with respect to any injury or any other loss from motor vehicle accidents or from operation of a motor vehicle for which the insurer may provide for aggregate limits with respect to such additional coverage so long as the basic liability coverages provided are not less than those required by section 431:10C-301(b)(1) and (2);

(4) At the option of the insured, an option in writing for coverage for wage loss benefits for monthly earnings loss for injury arising out of a motor vehicle accident. Any change in the wage loss benefits coverage selected by an insured shall apply only to benefits arising out of motor vehicle accidents occurring after the date the change becomes effective. Coverage shall be offered in multiples of $500 a month/$3,000 per accident per person, from $500 a month/$3,000 per accident to $2,000 a month/$12,000 per accident; however, nothing shall prevent an

1 insurer from making available higher limits of
2 coverage;
3 (5) An option in writing for minimum coverage for death
4 benefits for death arising out of a motor vehicle
5 accident in an amount of $25,000, to be paid to the
6 surviving spouse, for the benefit of the spouse and
7 dependent children, or if there are no surviving
8 spouse or dependent children, then to the estate.
9 Coverage shall also be made available for increased
10 death benefits in increments of $25,000 up to
11 $100,000; however, nothing shall prevent an insurer
12 from making available higher limits of coverage. At
13 the option of the insured, coverage for funeral
14 expenses of $2,000 shall be made available;
15 (6) Terms, conditions, exclusions, and deductible clauses,
16 coverages, and benefits which:
17 (A) Are consistent with the required provisions of
18 the policy;
19 (B) Limit the variety of coverage available so as to
20 give buyers of insurance reasonable opportunity
21 to compare the cost of insuring with various
22 insurers; and

1 (C) Are approved by the commissioner as fair and
2 equitable;
3 (7) At appropriately reduced premium rates, deductibles
4 applicable only to claims of an insured in the amounts
5 of $100, $300, $500, and $1,000 from all personal
6 injury protection benefits otherwise payable; provided
7 that if two or more insureds to whom the deductible is
8 applicable under the contract of insurance are injured
9 in the same accident, the aggregate amount of the
10 deductible applicable to all of them shall not exceed
11 the specified deductible, which amount where necessary
12 shall be allocated equally among them;
13 (8) Every insurer shall fully disclose the availability of
14 all required and optional coverages and deductibles,
15 including the nature and amounts, at the issuance or
16 delivery of the policy; or, for a policy already
17 issued on January 1, 1998, disclosure shall be made at
18 the first renewal after January 1, 1998. The insurer
19 shall also disclose at issuance or renewal, as
20 applicable, the effect on premium rates and savings of
21 each option and deductible. Further offers or
22 disclosures thereafter shall be required to be

included with every other renewal or replacement policy. All elections of coverages, options, and deductibles by a named insured shall be binding upon additional insureds covered under the named insured's policy. The purpose of this paragraph is to inform insureds or prospective insureds of the coverages under this article;

(9) (A) An insurer may make available, and provide at the option of the named insured, the benefits described in section 431:10C-103.5(a) through managed care providers such as a health maintenance organization or a preferred provider organization. The option may include conditions and limitations to coverage, including deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve those conditions and limitations which are substantially comparable to or exceed the coverage provided under section 431:10C-103.6[~~;~~]. This managed care option shall not apply to any claimant if there are fewer than five managed care, health maintenance

1 organizations, or preferred provider physicians
2 or health care providers of the appropriate
3 specialty belonging to or participating in the
4 managed care option located within twenty-five
5 miles of the claimant's residence;
6 (B) An insurer may make available, and provide at the
7 option of the named insured, deductible and
8 coinsurance arrangements whereby the recipient of
9 care, treatment, services, products, expenses, or
10 accommodations shares in the payment obligation;
11 (C) No deductible or coinsurance under a policy
12 covered under section 431:10C-302(a)(9)(A) or (B)
13 shall be applied with respect to care, treatment,
14 services, products, or accommodation provided or
15 expenses incurred by an insured during the first
16 twenty-four hours in which emergency treatment
17 has been provided or until the insured patient's
18 emergency medical condition is stabilized,
19 whichever is longer;
20 (D) (i) The optional coverage prescribed in section
21 431:10C-302(a)(9)(A) and (B) shall apply

only to the named insured, resident spouse, or resident relative; and

(ii) "Resident relative" means a person who, at the time of the accident, is related by blood, marriage, or adoption to the named insured or resident spouse and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if living elsewhere;

(E) An agreement made under section 431:10C-302(a)(9) must be a voluntary agreement between the insured and the insurer, and no insurer shall require an insured to agree to those policy provisions as a condition of providing insurance coverage. Requiring an agreement as a precondition to the provision of insurance shall constitute an unfair insurance practice and shall be subject to the provisions, remedies, and penalties provided in article 13; and

(F) An insurer providing the coverages authorized in section 431:10C-302(a)(9)(A) and (B) shall

demonstrate in rate filings submitted to the commissioner the savings to the insured to be realized under the plan;

(10) An insurer shall make available optional coverage for naturopathic, acupuncture, nonmedical remedial care, and treatment rendered in accordance with the teachings, faith, or belief of any group which relies upon spiritual means through prayer for healing; and

(11) An insurer may make available optional coverage for chiropractic treatment in addition to chiropractic treatment provided under section 431:10C-103.6 for not more than the lesser of the following:

(A) Thirty additional visits at no more than $75 a visit; or

(B) Treatment as defined by the Hawaii Chiropractic Association guidelines in effect on January 25, 1997.

The commissioner shall adopt rules, including policy limits, terms, and conditions as necessary to implement the requirements of this section."

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

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: _____

JAN 22 2008

H.B. NO. 2901

**Report Title:**
Motor Vehicle Insurance; Managed Care

**Description:**
Exempts motor vehicle insurers from being required to make available to the insured, at the insured's option, personal injury protection benefits through managed care, if there are fewer than 5 managed care providers or equivalent entities within 25 miles of the claimant.