
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 coronavirus disease 2019 (COVID-19) pandemic may force
16 reductions in payments. As such, the provider fee would help
17 preserve access to health care for the medicaid population,
18 which would benefit health insurers in the State. Medicaid
19 coverage helps reduce uncompensated care costs that lead to
20 higher costs for health care insurance premiums. Medicaid helps
21 sustain the State's entire healthcare system as a whole.



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" shall
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, tri-care,
 7 other federal insurance, and other individual medical insurance.

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

9 There is created 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



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

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

7 § -5 Medicaid sustainability fee. (a) Effective
8 July 1, 2021, or the effective date of any necessary federal
9 approvals, whichever date is later, the department shall charge
10 and collect provider fees, to be known as the medicaid
11 sustainability fee, on health insurers.

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

15 (c) The department shall assess fees based on the four
16 tiers of member months as follows: tier 1 is zero to 75,000
17 member months; tier two is 75,001 to 375,000 member months; tier
18 three is 375,001 to 500,000 member months; and tier four is
19 500,000 to 4,000,000 member months.

20 (d) The department shall adopt rules on the health insurer
21 fees. The fees may be assessed up to \$12 for tier one per



1 medicaid member months and up to \$15 for tier two medicaid
2 member months; and \$1.00 for tier one non-medicaid member
3 months.

4 (e) The department may modify the fees assessed for the
5 medicaid sustainability program if such modification is
6 necessary to obtain federal waiver approval consistent with the
7 requirements of 42 Code of Federal Regulations section
8 433.68(e)(2).

9 § -6 **Medicaid sustainability fee assessments.** (a)
10 Health insurers shall pay the medicaid sustainability fee to the
11 department in accordance with this chapter. The fee shall be
12 divided and paid in twelve equal installments on a monthly
13 basis.

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

17 § -7 **Federal approval.** The department shall seek
18 waivers and any additional approvals from the Centers for
19 Medicare and Medicaid Services that may be necessary to
20 implement the medicaid sustainability program.



1 § -8 Penalties for failure to pay the medicaid
2 sustainability fee. If a health insurer fails to pay the full
3 amount of any medicaid sustainability fee when due, the health
4 insurer shall pay a penalty equal to prime, plus two per cent,
5 of the fee that was not paid when due. Any subsequent payments
6 shall be credited first to unpaid fee amounts beginning with the
7 most delinquent installment rather than to the penalty or
8 interest amounts. The department may waive the fees of this
9 section for reasonable cause.

10 § -9 Special designation of medicaid sustainability
11 program special fund. Notwithstanding section 37-53, and any
12 law or any administrative rule to the contrary, the specific
13 purposes set out in section -4(c) are established as being
14 the exclusive uses of the medicaid sustainability program
15 special fund. The medicaid sustainability program special fund
16 shall not be used for any other purposes, notwithstanding any
17 authority granted to the governor or any other state official by
18 any other statutory provisions relating to the allocation or
19 reallocation of funds."

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



- 1 (a) Except as provided in this section, and
2 notwithstanding any other law to the contrary, from time to
3 time, the director of finance, for the purpose of defraying the
4 prorated estimate of central service expenses of government in
5 relation to all special funds, except the:
- 6 (1) Special out-of-school time instructional program fund
7 under section 302A-1310;
 - 8 (2) School cafeteria special funds of the department of
9 education;
 - 10 (3) Special funds of the University of Hawaii;
 - 11 (4) State educational facilities improvement special fund;
 - 12 (5) Convention center enterprise special fund under
13 section 201B-8;
 - 14 (6) Special funds established by section 206E-6;
 - 15 (7) Aloha Tower fund created by section 206J-17;
 - 16 (8) Funds of the employees' retirement system created by
17 section 88-109;
 - 18 (9) Hawaii hurricane relief fund established under chapter
19 431P;
 - 20 (10) Hawaii health systems corporation special funds and
21 the subaccounts of its regional system boards;



- 1 (11) Tourism special fund established under section 201B-
- 2 11;
- 3 (12) Universal service fund established under section 269-
- 4 42;
- 5 (13) Emergency and budget reserve fund under section 328L-
- 6 3;
- 7 (14) Public schools special fees and charges fund under
- 8 section 302A-1130;
- 9 (15) Sport fish special fund under section 187A-9.5;
- 10 [+](16) [+](16) Neurotrauma special fund under section 321H-4;
- 11 [+](17) [+](17) Glass advance disposal fee established by section
- 12 342G-82;
- 13 [+](18) [+](18) Center for nursing special fund under section 304A-
- 14 2163;
- 15 [+](19) [+](19) Passenger facility charge special fund established by
- 16 section 261-5.5;
- 17 [+](20) [+](20) Solicitation of funds for charitable purposes special
- 18 fund established by section 467B-15;
- 19 [+](21) [+](21) Land conservation fund established by section 173A-5;
- 20 [+](22) [+](22) Court interpreting services revolving fund under
- 21 section 607-1.5;



- 1 [+] (23) [+] Trauma system special fund under section 321-22.5;
- 2 [+] (24) [+] Hawaii cancer research special fund;
- 3 [+] (25) [+] Community health centers special fund;
- 4 [+] (26) [+] Emergency medical services special fund;
- 5 [+] (27) [+] Rental motor vehicle customer facility charge special
- 6 fund established under section 261-5.6;
- 7 [+] (28) [+] Shared services technology special fund under section
- 8 27-43;
- 9 [+] (29) [+] Automated victim information and notification system
- 10 special fund established under section 353-136;
- 11 [+] (30) [+] Deposit beverage container deposit special fund under
- 12 section 342G-104;
- 13 [+] (31) [+] Hospital sustainability program special fund under
- 14 [+] section 346G-4 [+] ;
- 15 [+] (32) [+] Nursing facility sustainability program special fund
- 16 under [+] section 346F-4 [+] ;
- 17 [+] (33) [+] Hawaii 3R's school improvement fund under section
- 18 302A-1502.4;
- 19 [+] (34) [+] After-school plus program revolving fund under section
- 20 302A-1149.5; [~~and~~]



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

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

20 "(a) Each special fund, except the:



- 1 (1) Special out-of-school time instructional program fund
- 2 under section 302A-1310;
- 3 (2) School cafeteria special funds of the department of
- 4 education;
- 5 (3) Special funds of the University of Hawaii;
- 6 (4) State educational facilities improvement special fund;
- 7 (5) Special funds established by section 206E-6;
- 8 (6) Aloha Tower fund created by section 206J-17;
- 9 (7) Funds of the employees' retirement system created by
- 10 section 88-109;
- 11 (8) Hawaii hurricane relief fund established under chapter
- 12 431P;
- 13 (9) Convention center enterprise special fund established
- 14 under section 201B-8;
- 15 (10) Hawaii health systems corporation special funds and
- 16 the subaccounts of its regional system boards;
- 17 (11) Tourism special fund established under section 201B-
- 18 11;
- 19 (12) Universal service fund established under section 269-
- 20 42;



- 1 (13) Emergency and budget reserve fund under section 328L-
- 2 3;
- 3 (14) Public schools special fees and charges fund under
- 4 section 302A-1130;
- 5 (15) Sport fish special fund under section 187A-9.5;
- 6 [+](16) [+](16) Neurotrauma special fund under section 321H-4;
- 7 [+](17) [+](17) Center for nursing special fund under section 304A-
- 8 2163;
- 9 [+](18) [+](18) Passenger facility charge special fund established by
- 10 section 261-5.5;
- 11 [+](19) [+](19) Court interpreting services revolving fund under
- 12 section 607-1.5;
- 13 [+](20) [+](20) Trauma system special fund under section 321-22.5;
- 14 [+](21) [+](21) Hawaii cancer research special fund;
- 15 [+](22) [+](22) Community health centers special fund;
- 16 [+](23) [+](23) Emergency medical services special fund;
- 17 [+](24) [+](24) Rental motor vehicle customer facility charge
- 18 special fund established under section 261-5.6;
- 19 [+](25) [+](25) Shared services technology special fund under section
- 20 27-43;



1 [+] (26) [+] Nursing facility sustainability program special fund
2 established pursuant to [+] section 346F-4 [+] ;
3 [+] (27) [+] Automated victim information and notification system
4 special fund established under section 353-136;
5 [+] (28) [+] Hospital sustainability program special fund under
6 [+] section 346G-4 [+] ; [and]
7 [+] (29) [+] Civil monetary penalty special fund under section 321-
8 30.2 [7] ; and
9 (30) Medicaid sustainability program special fund under
10 section -4,
11 shall be responsible for its pro rata share of the
12 administrative expenses incurred by the department responsible
13 for the operations supported by the special fund concerned."
14 SECTION 5. There is appropriated out of the medicaid
15 sustainability program special fund the sum of \$100,000,000 or
16 so much thereof as may be necessary for fiscal year 2021-2022
17 and the same sum or so much thereof as may be necessary for
18 fiscal year 2022-2023 for the purposes of the medicaid
19 sustainability program.
20 The sums appropriated shall be expended by the department
21 of human services for the purposes of this Act.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on May 1, 2029, and
4 shall be repealed on December 31, 2023; provided that
5 section -4, Hawaii Revised Statutes, in section 2 of this Act
6 and section 3 and section 4 of this Act shall be repealed on
7 June 30, 2024, and section 36-27(a) and 36-30(a), Hawaii Revised
8 Statutes, shall be reenacted on June 30, 2024, in the form in
9 which they read on the day before the effective date of this
10 Act.



Report Title:

Medicaid Sustainability Program; Appropriation

Description:

Establishes the Medicaid Sustainability Program for two years. Appropriates funds out of the Medicaid Sustainability Program Special Fund for fiscal years 2021-2022 and 2022-2023. (SD1)

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

