



GOV. MSG. NO. 720

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 9, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 9, 2009, the following bill was signed into law:

SB917 SD2 HD1 CD1

A BILL FOR AN ACT
RELATING TO THIRD PARTY LIABILITY FOR
MEDICAID.
ACT 103 (09)

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO THIRD PARTY LIABILITY FOR MEDICAID.

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

1 SECTION 1. The Deficit Reduction Act of 2005, P.L.
2 109-171, made a number of amendments to Section 1902 of the
3 Social Security Act intended to strengthen states' ability to
4 identify and collect from liable third party payers.

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

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

10 "§431L- Insurer requirements. Any health insurer as
11 identified in section 431L-1 shall:

12 (1) Provide, with respect to individuals who are eligible
13 for, or are provided, medical assistance under Title
14 42 United States Code Section 1396a (Section 1902 of
15 the Social Security Act), as amended, upon the request
16 of the State, information to determine during what
17 period the individual or the individual's spouse or



1 dependents may be or may have been covered by a health
2 insurer and the nature of the coverage that is or was
3 provided by the health insurer, including the name,
4 address, and identifying number of the plan in a
5 manner prescribed by the State;

6 (2) Accept the State's right of recovery and the
7 assignment to the State of any right of an individual
8 or other entity to payment from the party for a health
9 care item or service for which payment has been made
10 for medical assistance under Title 42 United States
11 Code Section 1396a (Section 1902 of the Social
12 Security Act);

13 (3) Respond to any inquiry by the State regarding a claim
14 for payment for any health care item or service that
15 is submitted not later than three years after the date
16 of the provision of the health care item or service;
17 and

18 (4) Agree not to deny a claim submitted by the State
19 solely on the basis of the date of submission of the
20 claim, the type or format of the claim form, or a
21 failure to present proper documentation at the point-
22 of-sale that is the basis of the claim, if:



1 (A) The claim is submitted by the State within the
2 three-year period beginning on the date on which
3 the health care item or service was furnished;
4 and

5 (B) Any action by the State to enforce its rights
6 with respect to the claim is commenced within six
7 years of the State's submission of the claim."

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

10 " ~~[+]~~ §431L-1 ~~[+]~~ Insurers prohibited from taking medicaid
11 status into account. Any health insurer (including a self-
12 insured plan, a group health plan~~[,]~~ as defined in ~~[section]~~
13 Section 607(1) of the Employee Retirement Income Security Act of
14 1974, a health service benefit plan, a mutual benefit society, a
15 fraternal benefit society ~~[and]~~, a health maintenance
16 organization~~[,]~~ a managed care organization, a pharmacy benefit
17 manager, or other party that is, by statute, contract, or
18 agreement, legally responsible for payment of a claim for a
19 health care item or service) is prohibited, in enrolling an
20 individual or in making any payments for benefits to the
21 individual or on the individual's behalf, from taking into
22 account that the individual is eligible for or is provided



1 medical assistance under Title 42 [U.S.C. section] United States
2 Code Section 1396a (Section 1902 of the Social Security Act)
3 herein referred to as medicaid, for this State, or any other
4 state."

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

7 "[+]§431L-2[+] State's right to third party payments. To
8 the extent that payment has been made under the state plan for
9 medical assistance for health care items or services furnished
10 to an individual in any case where [~~a third~~] another party has a
11 legal liability to make payment for such assistance, [~~the State~~
12 ~~has in effect laws under which, to the extent that payment has~~
13 ~~been made under the state plan for medical assistance for health~~
14 ~~care items or services furnished to an individual,~~] the State is
15 considered to have acquired the rights of [~~such~~] the individual
16 to payment by [~~any~~] the other party for [~~such~~] those health care
17 items or services."

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

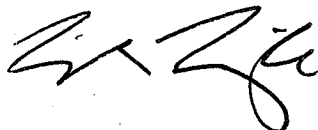
20 SECTION 6. This Act shall take effect upon its approval.



S.B. NO.

917
S.D. 2
H.D. 1
C.D. 1

APPROVED this 9 day of JUN, 2009



GOVERNOR OF THE STATE OF HAWAII