
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. Section 488-1, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:

4 "Accumulation or payment of money" or "accumulates funds"
5 means the payment of funds by a member to the plan.

6 "Commissioner" means the insurance commissioner."

7 SECTION 2. Section 488-2, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) This chapter shall apply to all plans in the State
10 other than:

11 ~~[(1) Plans in which either the group or the plan~~
12 ~~administrator is otherwise subject to regulation under~~
13 ~~chapter 431 or 432;~~

14 ~~-(2)]~~ (1) Plans in which any party to the plan is the
15 federal government or any agency thereof; or

16 ~~[-(3)]~~ (2) Any employer-employee plan that is subject to the
17 federal Employee Retirement Income Security Act of
18 1974, Public Law 93-406.



1 (b) The commissioner shall have jurisdiction to enforce
2 this chapter. The operation of all plans subject to this
3 chapter shall also be subject to chapters 480, part I of chapter
4 481, and chapters 481A, [~~and~~] 481B, and 481C, and other
5 provisions of law that may be applicable. Chapters 431 and 432
6 shall not apply to any plans or the operations thereof that are
7 subject to this chapter, except as provided in sections 488-4,
8 488-5, and 488-6."

9 SECTION 3. Section 488-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§488-3[+]~~ **Filing and other requirements.** (a) Sixty
12 days prior to the implementation of any plan and the
13 accumulation or payment of money thereunder, all plan documents
14 shall be submitted in writing [~~to the department.~~] for approval
15 by the commissioner.

16 (b) Such documentation shall contain in writing the
17 following:

18 (1) A brief statement of the plan's financial structure,
19 including a statement of the amount of prepayment, and
20 other charges or dues to be paid by plan members and
21 the manner in which such amount is to be paid~~[-]~~;



- 1 (2) A statement of the amount of benefits, legal services,
2 or reimbursement for legal services to be furnished
3 each member of a plan, and the period during which it
4 will be furnished; and, if there are exceptions,
5 reductions, exclusions, limitations, or restrictions
6 of such benefits, legal services, or reimbursements, a
7 detailed statement of such exceptions, reductions,
8 exclusions, limitations, or restrictions[-];
- 9 (3) A statement of the terms and conditions upon which the
10 plan may be canceled or otherwise terminated by the
11 group, the plan administrator, the persons furnishing
12 legal services, or the member; provided that for any
13 such cancellation or termination, other than by a
14 member, there shall be provision made for the
15 disposition of funds accumulated under the plan[-];
- 16 (4) A statement describing the applicability or
17 nonapplicability of the benefits of the plan to the
18 family dependents of the member[-];
- 19 (5) A statement of the period of grace which will be
20 allowed the member or the member's group for making
21 any payment due under the plan[-];



1 (6) A statement describing a procedure for settling
2 disputes between or among the group, the plan
3 administrator, the persons furnishing legal services,
4 and the member[-]; and

5 (7) A statement that the plan includes the endorsements
6 thereon and attached papers, if any, and contains the
7 entire contract or contracts to be used between all
8 parties to a plan.

9 Any amendments or changes to the documents filed under
10 paragraphs (1) to (7) shall be filed with the [department]
11 commissioner for approval sixty days before they take effect.
12 All documents filed under this section shall be public
13 documents."

14 SECTION 4. Section 488-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§488-4 **Accumulated funds, protection, violation.** (a)
17 Any plan which accumulates funds prior to the payment of such
18 funds to the persons providing legal services shall meet the
19 requirements of this section.

20 (b) The plan administrator shall have the responsibilities
21 of a trustee for all funds received or collected under this
22 chapter.



1 (c) The plan administrator, upon receipt of the funds,
2 shall maintain the funds at all times in a federally insured
3 account with a bank, savings and loan association, or financial
4 services loan company situated in Hawaii, separate from the
5 plan's own funds or funds held by the plan administrator in any
6 other capacity, in an amount at least equal to the funds
7 collected and unpaid to the persons providing legal services,
8 unless otherwise approved by the commissioner. Only such
9 additional funds as may be reasonably necessary to pay bank,
10 savings and loan association, or financial services loan company
11 charges may be commingled with the plan funds. If the bank,
12 savings and loan association, or financial services loan company
13 account is an interest-earning account, the plan may not retain
14 the interest earned on such funds for the plan or plan
15 administrator's own use or benefit without the prior written
16 consent of the person entitled to such funds. A plan trustee
17 account shall be designated on the records of the bank, savings
18 and loan association, or financial services loan company as a
19 "trustee account established pursuant to section 488-4, Hawaii
20 Revised Statutes", or words of similar import.

21 (d) The plan administrator shall obtain a bond in an
22 amount and form approved by the [department] commissioner which



1 shall be executed by the plan administrator and a surety company
2 authorized to do business in the [State] state as a surety. The
3 bond shall be to the benefit of the members of the plan and
4 shall be filed with the [~~department.~~] commissioner. In lieu of
5 the bond required by this section, the [~~department shall~~]
6 commissioner may accept letters of credit, certificates of
7 deposits, or other evidences of security in form and amounts
8 deemed appropriate by the [~~department.~~] commissioner.

9 (e) Any plan administrator who, not being lawfully
10 entitled to such funds, diverts or appropriates such funds or
11 any portion of them to the plan or plan administrator's own use
12 shall be subject to penalties as provided by law."

13 SECTION 5. Section 488-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§488-5 Annual exhibits; examination by [~~director.~~]**
16 **commissioner.** (a) Each plan shall file with the [~~director of~~
17 ~~commerce and consumer affairs~~] commissioner within [~~thirty~~]
18 sixty days after the end of its fiscal year [~~a statement under~~
19 ~~oath in such form as the director prescribes containing:~~

20 ~~(1) A statement setting forth the total amount of gross~~
21 ~~receipts and expenditures of the plan during its~~
22 ~~fiscal year,~~



1 ~~(2) The assets and liabilities of the plan at the close of~~
 2 ~~its fiscal year; and~~

3 ~~(3) The profit and loss of the plan during its fiscal~~
 4 ~~year.]~~

5 an income statement and balance sheet compiled, reviewed, or
 6 audited by a certified public accountant.

7 (b) The powers, authorities, and duties relating to
 8 examinations vested in and imposed upon the [insurantee]
 9 commissioner under chapter 431 [~~are extended to and imposed upon~~
 10 ~~the director in]~~ apply with respect to examinations of the
 11 plans; provided that no examination shall attempt to obtain or
 12 inspect written or oral information or documents in violation of
 13 the rules for client-lawyer confidentiality as contained in the
 14 Hawaii rules of professional conduct adopted by the supreme
 15 court."

16 SECTION 6. Section 488-7, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "~~[+]§488-7[+]~~ **Failure to comply; penalty.** (a) Any plan
 19 which neglects or refuses to comply with this chapter shall be
 20 notified in writing by the [~~director of commerce and consumer~~
 21 ~~affairs]~~ commissioner of the neglect or refusal and of the need
 22 to take corrective action~~[+]~~ within seven days; if the neglect



1 or refusal continues for seven days after notification, the
2 plan, group, or plan administrator may be fined not more than
3 \$1,000. [~~Every day's~~] Each day of neglect or refusal after the
4 expiration of seven days shall [be] constitute a separate
5 offense.

6 (b) The commissioner may deny, suspend, revoke, or refuse
7 to approve any plan or plan amendments and may levy civil
8 penalties as allowed by chapters 431, 432, 480, 481A, 481B, and
9 481C, and any applicable law for any violation of this chapter,
10 including restitution."

11 SECTION 7. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect on July 1, 2010.

14



Report Title:

Prepaid Legal Service Plans

Description:

Updates regulation of prepaid legal service plans. Effective July 1, 2010. (SD1)

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

