

JAN 20 2012

A BILL FOR AN ACT

RELATING TO MEDICAID.

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

1 SECTION 1. The legislature finds that waste, fraud, and
2 abuse cost state medicaid programs an estimated \$18 billion per
3 year nationwide. In most states, the common practice is to pay
4 claims and thereafter attempt to recover payments for claims
5 that are later found to be illegitimate. This "pay and chase"
6 model is extremely inefficient because it is more difficult to
7 recover payments than it is to deny illegitimate claims before
8 payments are made. One way to combat this problem is to
9 implement modern screening and prevention solutions to detect
10 fraud and abuse before illegitimate claims are paid.

11 The legislature also finds that implementing measures to
12 detect and prevent waste, fraud, and abuse in the State's
13 medicaid and children's health insurance programs will improve
14 the department of human services' ability to effectively
15 administer the programs and reduce costs. The measures will
16 also comply with program integrity provisions of the federal
17 Patient Protection and Affordable Care Act and the Health Care



1 and Education Reconciliation Act of 2010, promulgated in the
2 Centers for Medicare and Medicaid Services Final Rule 6028.

3 The purpose of this Act is to require the department of
4 human services to use modern claim screening solutions to detect
5 fraud and abuse before payments of illegitimate claims are made
6 under the medicaid managed care, medicaid, and children's health
7 insurance programs.

8 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
9 amended by adding a new part to be appropriately designated and
10 to read as follows:

11 **"PART . INSURANCE MONITORING AND ACCOUNTABILITY**

12 **§346- Definitions.** Unless the context otherwise
13 requires, the following definitions apply in this part:

14 "Children's health insurance program" means the children's
15 health insurance program established under Title XXI of the
16 Social Security Act, 42 United States Code section 1397aa et
17 seq.

18 "Department" means the department of human services.

19 "Enrollee" means an individual who is eligible to receive
20 benefits and is enrolled in either the medicaid or children's
21 health insurance program.



1 "Medicaid" means the program to provide grants to states
2 for medical assistance programs established under Title XIX of
3 the Social Security Act, 42 United States Code section 1396 et
4 seq.

5 "Secretary" means the United States Secretary of Health and
6 Human Services, acting through the Administrator of the Centers
7 for Medicare and Medicaid Services.

8 §346- **Applicability of part.** This part shall apply to
9 the medicaid managed care, medicaid, and children's health
10 insurance programs administered by the department of human
11 services.

12 §346- **Duties of the department.** The department shall
13 implement:

- 14 (1) Provider data verification and provider screening
15 technology solutions to check health care billing and
16 provider data against a continually maintained
17 provider information database, in order to automate
18 reviews and identify and prevent inappropriate
19 payments to providers with expired licenses, providers
20 that are deceased, sanctioned, or retired, or
21 confirmed wrong addresses;



1 (2) State-of-the-art clinical code editing technology to
2 further automate claims resolution and increase cost
3 savings by improving claim accuracy and appropriate
4 code correction. The technology shall identify and
5 prevent errors or potential overbilling based upon
6 widely accepted and transparent protocols such as
7 those of the American Medical Association and the
8 Centers for Medicare and Medicaid Services. The
9 editing shall be performed automatically before claims
10 are adjudicated. The editing shall increase the rate
11 of processing claims, reduce the number of pending or
12 rejected claims, and help ensure a more consistent and
13 transparent adjudication process and fewer delays in
14 provider reimbursement;

15 (3) State-of-the-art predictive modeling and analytics
16 technologies to provide a comprehensive and accurate
17 view of providers, beneficiaries, and geographies
18 within the medicaid and children's health insurance
19 programs in order to:

20 (A) Identify and analyze billing or utilization
21 patterns that represent a high risk of fraudulent
22 activity;



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- 1 (B) Be integrated into existing medicaid and
- 2 children's health insurance programs claims
- 3 workflow;
- 4 (C) Undertake and automate the analysis before
- 5 payment is made to minimize disruptions to
- 6 workflow and speed claim resolution;
- 7 (D) Prioritize identified transactions for additional
- 8 review before payment is made based on likelihood
- 9 of potential waste, fraud, or abuse;
- 10 (E) Capture outcome information from adjudicated
- 11 claims that will allow the predictive analytics
- 12 technologies based on historical data and
- 13 algorithms to be refined; and
- 14 (F) Prevent the payment of reimbursement claims that
- 15 are identified as potentially wasteful,
- 16 fraudulent, or abusive until the claims have been
- 17 automatically verified as valid;
- 18 (4) Fraud investigative services that combine
- 19 retrospective claims analysis and prospective waste,
- 20 fraud, or abuse detection techniques. The services
- 21 shall:



1 (A) Include analysis of historical claims data,
2 medical records, suspect provider databases,
3 high-risk identification lists, and direct
4 patient and provider interviews; and

5 (B) Emphasize educating providers and ensuring that
6 providers have the opportunity to review and
7 correct any identified problems prior to
8 adjudication; and

9 (5) Medicaid and children's health insurance programs
10 claims audit and recovery services to identify
11 improper payments resulting from nonfraudulent issues,
12 audit claims, obtain provider sign-off on audit
13 results, and recover validated overpayments. Post-
14 payment reviews shall ensure the accuracy and validity
15 of the diagnoses and procedure codes based on
16 supporting physician documentation in medical records.
17 Basic categories of reviews may include transfers,
18 readmissions, payment errors, and billing errors, as
19 well as any others deemed appropriate by the
20 department."

21 SECTION 3. The department of human services may contract
22 with the Cooperative Purchasing Network to issue a request for



1 proposal to select a contractor or the department may use the
2 procurement process prescribed by chapter 103D, Hawaii Revised
3 Statutes, to select a contractor for the first year of
4 implementation of this Act. The department shall enter into a
5 contract with an entity under this Act only if the entity:

6 (1) Is able to show appropriate technical, analytical, and
7 clinical knowledge and experience to carry out the
8 functions required by this Act; or has a contract or
9 will enter into a contract with another entity that
10 meets the criteria in this paragraph; and

11 (2) Complies with the ethical procurement requirements of
12 section 103D-101, Hawaii Revised Statutes.

13 The department may include subsequent implementation years and
14 may issue additional requests for proposals for subsequent
15 implementation years.

16 SECTION 4. The department of human services shall provide
17 entities with a contract under this Act with appropriate access
18 to data necessary for each entity to carry out its duties under
19 the contract, including current and historical medicaid and
20 children's health insurance programs claims and provider
21 database information, and facilitate public-private data



1 sharing, including across multiple medicaid managed care
2 entities.

3 SECTION 5. Not later than three months after the
4 completion of the first implementation year and after any
5 subsequent implementation year, the department of human services
6 shall submit to the legislature and make available to the public
7 a report that includes the following:

- 8 (1) A description of the implementation and use of
9 technologies pursuant to this Act during each
10 implementation year;
- 11 (2) A certification by the department that specifies the
12 actual and projected savings to the medicaid and
13 children's health insurance programs that resulted
14 from the technologies implemented, including estimates
15 of the cost savings regarding improper payments
16 recovered and avoided;
- 17 (3) The actual and projected savings to the medicaid and
18 children's health insurance programs that result from
19 the technologies relative to the return on investment
20 for the technologies and in comparison to other
21 strategies or technologies used to prevent and detect
22 waste, fraud, and abuse;



- 1 (4) Any modifications needed to increase the amount of
2 actual or projected savings or mitigate any adverse
3 impact on medicare beneficiaries or providers;
- 4 (5) An analysis of the successful prevention and detection
5 of waste, fraud, or abuse in the medicaid and
6 children's health insurance programs based upon the
7 use of the technologies;
- 8 (6) An analysis of whether the technologies affected
9 access to, or the quality of, services or items
10 provided to medicaid and children's health insurance
11 programs beneficiaries;
- 12 (7) An analysis of the effect, if any, using the
13 technologies had on medicaid and children's health
14 insurance programs providers, including provider
15 education efforts and documentation of processes for
16 providers to review and correct identified problems;
17 and
- 18 (8) Any additional information deemed necessary by the
19 department.

20 SECTION 6. The legislature intends that the savings
21 achieved by this Act will fund the cost of implementing it. To
22 the extent possible, technology services employed to carry out



1 this Act shall be obtained using a shared savings model, so that
2 the State's only direct cost will be a percentage of actual
3 savings achieved. A percentage of achieved savings may be used
4 to fund expenditures under this Act.

5 SECTION 7. The department of human services shall submit a
6 report to the legislature no later than twenty days prior to the
7 convening of the regular session of 2013 on its progress in
8 implementing this Act.

9 SECTION 8. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 9. This Act shall take effect on July 1, 2012.

16

INTRODUCED BY: Shiranne Chun Oakland
By Request



S.B. NO. 2166

Report Title:

Medicaid; Children's Health Insurance Program; Fraud Prevention and Detection

Description:

Requires the DHS to implement state-of-the-art technologies in its medicaid and children's health insurance programs to increase the department's ability to detect and prevent waste, fraud, and abuse in the programs. Report to 2013 legislature.

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