
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE.

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

1 SECTION 1. Chapter 435H, Hawaii Revised Statutes, is
2 amended by adding five new sections to be appropriately
3 designated and to read as follows:

4 "§435H-A Risk pools; assessment. Before establishing a
5 program to serve the individual and the small group markets, the
6 connector shall conduct an assessment to determine the quality
7 of basic health plans offered and the financial impact upon
8 consumers if the risk pools for the individual and the small
9 group markets are separated or combined; provided further that a
10 report on the findings of the assessment shall be made publicly
11 available pursuant to section 435H-C. For the purpose of
12 effectuating this section, the connector may hire an actuary in
13 good standing with the American Academy of Actuaries.

14 §435H-B Navigator program. (a) The board shall establish
15 a navigator program that is consistent with section 1311(i) of
16 the Federal Act.



1 (b) The connector may award grants to entities that are
2 selected by the board to serve as navigators; provided that
3 recipients of navigator grants shall:

4 (1) Be nonprofit entities organized under chapter 414D;

5 (2) Meet the requirements for navigators specified in
6 section 1311(i) of the Federal Act; and

7 (3) Meet any additional requirements established by the
8 board; or

9 (4) Notwithstanding paragraph (1), (2), or (3) to the
10 contrary, comply with all provisions that are
11 otherwise required by federal law;

12 provided further that an insurance producer or insurance broker
13 shall not serve as a navigator.

14 (c) Federal funds received by the State to establish the
15 connector shall not be used to fund grants to navigators.

16 **§435H-C Open meetings; board of directors; notices;**

17 **agenda.** (a) Every meeting of the board shall be open to the

18 public and all persons shall be permitted to attend any meeting,
19 unless the meeting is closed or as otherwise provided by law;

20 provided that any person or persons who wilfully disrupt a

21 meeting to prevent and impede the conduct of the meeting may be

22 removed.



1 (b) The board shall afford all interested persons an
2 opportunity to submit data, views, or arguments as testimony via
3 the board's website on any item listed on the agenda. The board
4 shall also afford all interested persons an opportunity to
5 present oral testimony on any agenda item; provided that the
6 board may adopt rules to allow for the reasonable administration
7 of oral testimony.

8 (c) At least six calendar days before a meeting, the board
9 shall file a physical and electronic copy of the notice for
10 public inspection in the office of the lieutenant governor and
11 in the board's office. The notice shall include an agenda that
12 lists all of the items to be considered at the meeting and the
13 date, time, and location of the meeting.

14 (d) The board shall maintain a list of names and addresses
15 of persons who request notification of meetings and shall mail
16 or transmit an electronic copy of the notice to such persons no
17 later than the time the agenda is filed under this subsection.
18 Whenever feasible, notice of the meeting shall also be posted at
19 the site of the meeting.

20 (e) The board shall keep written minutes of all meetings.
21 Unless otherwise required by law, neither a full transcript nor
22 a recording of the meeting shall be required, but the written



1 minutes shall give a true reflection of the matters discussed at
2 the meeting and the views of the participants. The minutes
3 shall include, at a minimum:

- 4 (1) The date, time, and location of the meeting;
5 (2) The members of the board recorded as either present or
6 absent;
7 (3) The substance of all matters proposed, discussed, or
8 decided;
9 (4) A record, by individual member, of any votes taken;
10 and
11 (5) Any other information that any member of the board
12 requests to be included or reflected in the minutes.

13 The minutes shall be public records and shall be made available
14 online within thirty days after the meeting, or six days prior
15 to the next meeting, whichever comes first.

16 **§435H-D Hawaii health insurance exchange plans;**
17 **commissioner; approval authority.** (a) The commissioner shall
18 approve all qualified health plans in compliance with the
19 following transparency provisions:

- 20 (1) All meetings regarding the planning and decision
21 making of the Hawaii health insurance exchange health
22 plans shall be open to the public; and



1 (2) At least six calendar days before the meeting, the
2 commissioner shall file a physical and electronic copy
3 of the meeting's notice for public inspection in the
4 office of the lieutenant governor. The notice shall
5 include an agenda that lists all of the items to be
6 considered at the meeting and the date, time, and
7 location of the meeting.

8 (b) The commissioner shall keep written minutes of all
9 meetings. Unless otherwise required by law, neither a full
10 transcript nor a recording of the meeting shall be required, but
11 the written minutes shall give a true reflection of the matters
12 discussed at the meeting and the views of the participants. The
13 minutes shall include, at a minimum:

- 14 (1) The date, time, and location of the meeting;
15 (2) The substance of all matters proposed, discussed, or
16 decided; and
17 (3) A record of decision making.

18 The minutes shall be public records and shall be made available
19 online within thirty days after the meeting, or six days prior
20 to the next meeting, whichever comes first.

21 §435H-E Annual report. The connector shall report the
22 status of the exchange, upcoming federal deadline requirements,



1 and its fulfillment of federal deadline requirements, to the
2 legislature no later than twenty days prior to the convening of
3 each regular session."

4 SECTION 2. Section 435H-1, Hawaii Revised Statutes, is
5 amended by adding six new definitions to be appropriately
6 inserted and to read:

7 "Health benefit plan" means a policy, contract,
8 certificate, or agreement offered, delivered, issued for
9 delivery, renewed, amended, or continued in the State by an
10 insurer to provide, deliver, arrange, pay for, or reimburse any
11 of the costs of health care services. "Health benefit plan"
12 shall not include:

- 13 (1) Coverage for only accident or disability income
14 insurance, or any combination thereof;
15 (2) Coverage issued as a supplement to liability
16 insurance;
17 (3) Liability insurance, including general liability
18 insurance and motor vehicle liability insurance;
19 (4) Workers' compensation or similar insurance;
20 (5) Motor vehicle personal injury protection insurance;
21 (6) Credit-only insurance;
22 (7) Coverage for on-site medical clinics;



1 (8) Other insurance coverage under which benefits for
2 health care services are secondary or incidental to
3 other insurance benefits;

4 (9) The following benefits if the benefits are provided
5 under a separate policy, certificate, or contract of
6 insurance or are otherwise not an integral part of the
7 plan:

8 (A) Limited scope dental or vision benefits; and

9 (B) Benefits for long-term care, nursing home care,
10 home health care, community-based care, or any
11 combination thereof;

12 (10) The following benefits, if the benefits are provided
13 under a separate policy, certificate, or contract of
14 insurance; there is no coordination between the
15 provision of the benefits and any exclusion of
16 benefits under any group health plan maintained by the
17 same plan sponsor; and the benefits are paid with
18 respect to an event without regard to whether benefits
19 are provided with respect to the event under any group
20 health plan maintained by the same insurer:

21 (A) Coverage only for a specified disease or illness;
22 and



1 (B) Hospital indemnity or other fixed indemnity
2 insurance; and

3 (11) The following, if offered as a separate policy,
4 certificate, or contract of insurance:

5 (A) Medicare supplemental health insurance, as
6 defined under section 1882(g)(1) of the Social
7 Security Act;

8 (B) Coverage supplemental to the coverage provided
9 under chapter 55 of title 10, United States Code,
10 as amended; and

11 (C) Similar coverage provided to supplement coverage
12 under a group health plan.

13 "Individual market" means the market for health insurance
14 coverage offered to individuals other than in connection with a
15 group health plan.

16 "Provider" means any person or entity licensed, certified,
17 or otherwise authorized to provide direct or indirect health
18 care services, or has contracts or subcontractors who provide or
19 could provide services to an enrollee or potential enrollee of
20 health insurance coverage. This designation shall apply to the
21 person, corporation, facility, or institution in its entirety
22 and any contracted entities or partnerships.



1 "Qualified employer" means a small employer that elects to
2 make, at a minimum, all of its full-time employees eligible for
3 one or more qualified plans in the small group market offered
4 through the connector.

5 "Small employer" means an employer who employed an average
6 of at least one and not more than fifty employees on business
7 days during the preceding calendar year and who employs at least
8 one employee on the first day of the plan year. Beginning on
9 January 1, 2016, "small employer" means an employer who employed
10 an average of at least one and not more than one hundred
11 employees on business days during the preceding calendar year
12 and who employs at least one employee on the first day of the
13 plan year.

14 "Small group market" means the health insurance market
15 under which individuals obtain health insurance coverage on
16 behalf of themselves and their dependents through a group health
17 plan maintained by a small employer."

18 SECTION 3. Section 435H-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~§~~435H-4~~§~~ **Board of directors; composition; operation.**

21 (a) The Hawaii health connector shall be a nonprofit
22 entity governed by a board of directors that shall comprise



1 ~~[fifteen]~~ seventeen members appointed by the governor and with
2 the advice and consent of the senate pursuant to section 26-34;
3 provided that the governor shall submit nominations to the
4 senate for advice and consent no later than February 1, 2012~~[+]~~,
5 and no later than February 1 in any year thereafter in which
6 nominations are made; and provided further that the senate shall
7 timely advise and consent to nominations for terms to begin
8 July 1, 2012~~[-]~~, and no later than July 1 in any year thereafter
9 in which nominations are made. Members of the interim board
10 shall be eligible for appointment to the board.

11 (b) The membership of the board shall reflect geographic
12 diversity and the diverse interests of stakeholders, including
13 consumers, employers, insurers, and ~~[dental-benefit]~~
14 providers[-]; provided that:

- 15 (1) Effective July 1, 2012, there shall be five consumers
16 on the membership of the board; and
17 (2) Upon the expiration of the initial terms of each of
18 the first two providers whose terms expire, the first
19 provider position to expire shall become an additional
20 consumer position and the second provider position to
21 expire shall become an additional employer position,



1 whereupon the composition of the membership of the seventeen-
2 member board shall be as follows: six consumers, two employers,
3 three insurers, two providers, the director of commerce and
4 consumer affairs or the director's designee, the director of
5 health or the director's designee, the director of human
6 services or the director's designee, and the director of labor
7 and industrial relations or the director's designee. The
8 insurers and providers on the board may serve only in an
9 advisory capacity and shall not be voting members. The director
10 of commerce and consumer affairs or the director's designee, the
11 director of health or the director's designee, the director of
12 human services or the director's designee, and the director of
13 labor and industrial relations or the director's designee shall
14 be ex-officio, voting members of the board.

15 (c) Board members shall serve staggered terms [~~and the~~
16 ~~interim board shall recommend an appropriate schedule for~~
17 ~~staggered terms; provided that this]~~ and shall be appointed to
18 terms of four years; provided that of the initial appointees,
19 five shall be appointed to a two-year term, and five shall be
20 appointed to a three-year term. Each member shall hold office
21 until the member's successor is appointed and qualified. This



1 subsection shall not apply to ex-officio members, who shall
2 serve during their entire term of office.

3 (d) The board shall adopt policies prohibiting conflicts
4 of interest and procedures for recusal of a member in the case
5 of an actual or potential conflict of interest, including
6 policies prohibiting a member from taking part in official
7 action on any matter in which the member had any financial
8 involvement or interest prior to the commencement of service on
9 the board. Members of the board may retain private counsel for
10 matters relating to service on the board according to rules
11 recommended by the board.

12 (e) The board shall manage the budget of the connector
13 according to generally accepted accounting principles and a plan
14 for financial organization adopted by the legislature based on
15 recommendations of the interim board.

16 (f) The board shall maintain transparency of board
17 actions, including public disclosure and posting of board
18 minutes on the connector's website [~~according to~~] in accordance
19 with the requirements of section 435H-C and other provisions
20 adopted by the legislature based on recommendations of the
21 interim board."



1 SECTION 4. Section 435H-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§435H-7[+]~~ **Eligibility determination for applicants in**
4 **medicaid adult and children's health insurance program.** The
5 department of human services shall be the agency to determine
6 qualifications and eligibility of individuals to participate in
7 medicaid ~~[adult]~~ or children's health insurance programs. ~~[The~~
8 ~~agency's determination of eligibility shall enable qualified~~
9 ~~individuals and authorized adults on behalf of qualified~~
10 ~~children to purchase qualified plans and qualified dental plans~~
11 ~~from the connector. The department of human services shall~~
12 ~~verify for the connector individuals and children able to~~
13 ~~participate in subsidized plans purchased through the~~
14 ~~connector.]~~ The agency shall make a determination of eligibility
15 for each individual who applies through the connector unless the
16 applicant declines an eligibility determination."

17 SECTION 5. The changes to the composition of the Hawaii
18 health connector board of directors made to subsection (b) of
19 section 435H-4, Hawaii Revised Statutes, in section 3 of this
20 Act are not intended to replace any member of the board prior to
21 the end of that member's term.



1 SECTION 6. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 7. In codifying the new sections added by section
8 1 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new section in this Act.

11 SECTION 8. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Hawaii Health Insurance Exchange; Hawaii Health Connector

Description:

Requires the Hawaii Health Connector to conduct an assessment before establishing a program to serve the individual and the small group markets. Establishes a navigator program. Clarifies the conduct of board meetings. Establishes staggered terms for board members and clarifies board composition. Clarifies role of the Department of Human Services in determining Medicaid eligibility. (SB2434 HD3)

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

