A BILL FOR AN ACT

RELATING TO HEALTH CARE COVERAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Section 431:10A-105, Hawaii Revised Statutes, is amended to read as follows:

"§431:10A-105 Required provisions. Except as provided in section 431:10A-107, each policy of accident and health or sickness insurance delivered or issued for delivery to any person in this State shall contain the provisions set forth below. These provisions shall be in the words in which they appear below; provided that the insurer may substitute corresponding provisions of different wording certified by an officer of the insurer to be in substantial conformance with the wording below that are in each instance not less favorable in any respect to the insured or the beneficiary. The provisions shall be preceded individually by the specified caption or by appropriate individual or group captions or subcaptions that are substantially similar to the specified captions. The provisions required by this section are as follows:
(1) "Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy prior to its renewal shall be valid [until approved by an executive officer of the insurer and unless the approval is endorsed on or attached to this policy]. No agent has authority to change this policy or to waive any of its provisions[^1] prior to its renewal;";

(2) (A) "Time Limit on Certain Defenses:

(i) After three years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for this policy shall be used to void this policy or to deny a claim for loss incurred or disability as defined in the policy commencing after the expiration of the three-year period; and

(ii) No claim for loss incurred or disability as defined in the policy commencing after three years from the date of issue of this policy
shall be reduced or denied on the ground that a disease or physical condition not excluded on the date of loss from coverage by name or specific description had existed prior to the effective date of coverage of this policy;"

(B) The policy provision set forth in subparagraph (A)(i) shall not be construed to affect any legal requirement for avoidance of a policy or denial of a claim during the initial three-year period, nor to limit the application of section 431:10A-106(1) through (4) in the event of misstatement with respect to age, occupation, or other insurance; and

(C) A policy that the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of subparagraph (A)(i) the following provision from
which the clause in parentheses may be omitted at
the insurer's option: "Incontestable: After
this policy has been in force for a period of
three years during the lifetime of the insured
(excluding any period during which the insured is
disabled), it shall become incontestable as to
the statements contained in the application";

(3) (A) "Grace period: A grace period of (insert a
number not less than seven for weekly premium
policies, ten for monthly premium policies, and
thirty-one for all other policies) days will be
granted for the payment of each premium falling
due after the first premium, during which grace
period the policy shall continue in force";

(B) A policy that contains a cancellation provision
may add at the end of the provision required by
subparagraph (A): "Subject to the right of the
insurer to cancel in accordance with the
cancellation provision"; and

(C) A policy in which the insurer reserves the right
to refuse any renewal shall have at the beginning
of the provision required by subparagraph (A):

"Unless not less than thirty days prior to the
premium due date the insurer has delivered to the
insured or has mailed to the insured's last
address as shown by the records of the insurer
written notice of its intention not to renew this
policy beyond the period for which the premium
has been accepted";

(4) (A) "Reinstatement: If any renewal premium is not
paid within the time granted to the insured for
payment, a subsequent acceptance of premium by
the insurer or by any agent duly authorized by
the insurer to accept the premium, without
requiring in connection therewith an application
for reinstatement, shall reinstate the policy;
provided that if the insurer or agent requires an
application for reinstatement and issues a
conditional receipt for the premium tendered, the
policy shall be reinstated upon approval of the
application by the insurer or, lacking approval,
on the forty-fifth day following the date of
conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of the application. The reinstated policy shall cover only loss resulting from accidental injury as may be sustained after the date of reinstatement and loss due to sickness as may begin more than ten days after that date. In all other respects, the insured and insurer shall have the same rights as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with the reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement"; and

(B) The last sentence in subparagraph (A) may be omitted from any policy that the insured has the right to continue in force subject to its terms
by the timely payment of premiums until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue;

(5) (A) "Notice of Claim: Written notice of claim shall be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of the office as the insurer may designate for the purpose) or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer"; and

(B) In a policy providing a loss of time benefit that may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences in subparagraph (A): "Subject to the qualification set forth below, if the insured suffers loss of time on
account of disability for which indemnity may be payable for at least two years, the insured shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of the claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in giving notice shall not impair the insured’s right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which notice is actually given; 

(6) "Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant any forms that are usually furnished by it for filing proofs of loss. If the forms are not furnished within fifteen days after the giving of notice the claimant shall be deemed to have complied with the requirements of this
policy as to proof of loss upon submitting, within the
time fixed in the policy for filing proofs of loss,
written proof covering the occurrence, the character,
and the extent of the loss for which claim is made";
(7) "Proofs of Loss: In case of claim for loss for which
this policy provides any periodic payment contingent
upon continuing loss, written proof of loss must be
furnished to the insurer at its office within ninety
days after the termination of the period for which the
insurer is liable, and in case of claim for any other
loss within ninety days after the date of loss.
Failure to furnish proof of loss within the time
required shall not invalidate nor reduce any claim if
it was not reasonably possible to give proof within
the time required, provided proof is furnished as soon
as reasonably possible and in no event, except the
absence of legal capacity, later than fifteen months
from the time proof is otherwise required";
(8) "Time of Payment of Claims: Indemnities payable under
this policy for any loss other than loss for which
this policy provides any periodic payment shall be
paid immediately upon receipt of due written proof of loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment shall be paid (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability shall be paid immediately upon receipt of due written proof";

(9) (A) "Payment of Claims: Indemnity for loss of life shall be payable in accordance with the beneficiary designation and the provisions respecting payment which may be prescribed herein and effective at the time of payment. If no designation or provision is then effective, the indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to the designated beneficiary or to the estate of the insured. All other indemnities shall be payable to the insured"; and
(B) Either or both of the following provisions may be included with the provision set forth in subparagraph (A) at the option of the insurer:

(i) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay the indemnity, up to an amount not exceeding $2,000 to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of the payment"; and

(ii) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the
insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of loss, be paid directly to the hospital or person rendering the services; but it is not required that the service be rendered by a particular hospital or person";

(10) "Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law";

(11) "Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No action at law or in equity shall be brought after the expiration of three years after the time written proof of loss is required to be furnished"; and
(12) (A) "Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change the beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy"; and

(B) The first clause of subparagraph (A), relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option."

SECTION 2. Section 431:10A-203, Hawaii Revised Statutes, is amended to read as follows:

"§431:10A-203 Standard provisions. Every policy of group or blanket disability insurance shall contain in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the individuals insured, or at least as favorable to such individuals and more favorable to the policyholder. No such policy of group or blanket disability insurance shall contain any provision relative to notice or proof of loss, or to the time for paying benefits, or to the
time within which suit may be brought upon the policy, which in
the opinion of the commissioner is less favorable to the
individuals insured than would be permitted by the standard
provisions required for individual accident and health or
sickness insurance policies.

(1) Representations. There shall be a provision that:

(A) All statements, made by the policyholder or by
the individuals insured, shall be deemed to be
representations and not warranties;

(B) No statement, made in the application by the
policyholder, shall be used in any contest unless
a copy of the application, if any, of the
policyholder shall be attached to the policy when
issued;

(C) No statement made by any individual insured shall
be used in any contest unless a copy of the
instrument containing the statement is or has
been furnished to such individual or to the
individual's beneficiary, if any; and

(D) A misrepresentation, unless it is made with
actual intent to deceive or unless it materially
affects either the acceptance of the risk or the hazard assumed by the insurer, shall not prevent a recovery on the policy.

(2) Certificates. There shall be a provision that the insurer shall issue to the policyholder for delivery to each insured employee or member, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage, and to whom the benefits are payable. If family members are insured, only one certificate need be issued for each family. This paragraph shall not apply to blanket disability insurance policies.

(3) Additional insureds. There shall be a provision that to the group originally insured may be added, from time to time, eligible new employees, members, or dependents, as the case may be, in accordance with the terms of the policy.

(4) Age limitations. There shall be a provision specifying:

(A) The ages, if any, to which the insurance provided shall be limited;
(B) The ages, if any, for which additional restrictions are placed on benefits; and

(C) The additional restrictions placed on the benefits at such ages.

(5) Payment of premiums. There shall be a provision that all premiums due under the policy shall be remitted by the employer or employers of the persons insured, by the policyholder or by some other designated person acting on behalf of the association or group insured, to the insurer on or before the due date thereof within such grace period as may be specified therein.

(6) Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy prior to its renewal shall be valid. No agent has authority to change this policy or to waive any of its provisions prior to its renewal."

SECTION 3. Section 432:1-102, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:
Applicability of other laws. (a) Part III of article 10A, and article 10H of chapter 431 shall apply to nonprofit medical indemnity or hospital service associations.

[Such] Except for section 431:10A-105(1), associations shall be exempt from the provisions of part I of article 10A; provided that such exemption is in compliance with applicable federal statutes and regulations."

SECTION 4. Section 432D:23, Hawaii Revised Statutes, is amended to read as follows:

"§432D-23 Required provisions and benefits.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 7. This Act shall take effect upon its approval.
Report Title:
Health Care Coverage; Contract Changes

Description:
Prohibits health insurers and like entities from making changes to policies or contracts prior to their renewal.

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