
A BILL FOR AN ACT

RELATING TO HEALTH CARE COVERAGE.

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

1 SECTION 1. Section 431:10A-105, Hawaii Revised Statutes,
2 is amended to read as follows:
3 "**§431:10A-105 Required provisions.** Except as provided in
4 section 431:10A-107, each policy of accident and health or
5 sickness insurance delivered or issued for delivery to any
6 person in this State shall contain the provisions set forth
7 below. These provisions shall be in the words in which they
8 appear below; provided that the insurer may substitute
9 corresponding provisions of different wording certified by an
10 officer of the insurer to be in substantial conformance with the
11 wording below that are in each instance not less favorable in
12 any respect to the insured or the beneficiary. The provisions
13 shall be preceded individually by the specified caption or by
14 appropriate individual or group captions or subcaptions that are
15 substantially similar to the specified captions. The provisions
16 required by this section are as follows:



- 1 (1) "Entire Contract; Changes: This policy, including the
2 endorsements and the attached papers, if any,
3 constitutes the entire contract of insurance. No
4 change in this policy prior to its renewal shall be
5 valid [~~until approved by an executive officer of the~~
6 ~~insurer and unless the approval is endorsed on or~~
7 ~~attached to this policy~~]. No agent has authority to
8 change this policy or to waive any of its
9 provisions[~~+~~] prior to its renewal";
- 10 (2) (A) "Time Limit on Certain Defenses:
- 11 (i) After three years from the date of issue of
12 this policy, no misstatements, except
13 fraudulent misstatements, made by the
14 applicant in the application for this policy
15 shall be used to void this policy or to deny
16 a claim for loss incurred or disability as
17 defined in the policy commencing after the
18 expiration of the three-year period; and
- 19 (ii) No claim for loss incurred or disability as
20 defined in the policy commencing after three
21 years from the date of issue of this policy



1 shall be reduced or denied on the ground
2 that a disease or physical condition not
3 excluded on the date of loss from coverage
4 by name or specific description had existed
5 prior to the effective date of coverage of
6 this policy";

7 (B) The policy provision set forth in subparagraph
8 (A)(i) shall not be construed to affect any legal
9 requirement for avoidance of a policy or denial
10 of a claim during the initial three-year period,
11 nor to limit the application of section 431:10A-
12 106(1) through (4) in the event of misstatement
13 with respect to age, occupation, or other
14 insurance; and

15 (C) A policy that the insured has the right to
16 continue in force subject to its terms by the
17 timely payment of premium until at least age
18 fifty or, in the case of a policy issued after
19 age forty-four, for at least five years from its
20 date of issue, may contain in lieu of
21 subparagraph (A)(i) the following provision from



1 which the clause in parentheses may be omitted at
2 the insurer's option: "Incontestable: After
3 this policy has been in force for a period of
4 three years during the lifetime of the insured
5 (excluding any period during which the insured is
6 disabled), it shall become incontestable as to
7 the statements contained in the application";

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

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

20 (C) A policy in which the insurer reserves the right
21 to refuse any renewal shall have at the beginning



1 of the provision required by subparagraph (A):
2 "Unless not less than thirty days prior to the
3 premium due date the insurer has delivered to the
4 insured or has mailed to the insured's last
5 address as shown by the records of the insurer
6 written notice of its intention not to renew this
7 policy beyond the period for which the premium
8 has been accepted";

9 (4) (A) "Reinstatement: If any renewal premium is not
10 paid within the time granted to the insured for
11 payment, a subsequent acceptance of premium by
12 the insurer or by any agent duly authorized by
13 the insurer to accept the premium, without
14 requiring in connection therewith an application
15 for reinstatement, shall reinstate the policy;
16 provided that if the insurer or agent requires an
17 application for reinstatement and issues a
18 conditional receipt for the premium tendered, the
19 policy shall be reinstated upon approval of the
20 application by the insurer or, lacking approval,
21 upon the forty-fifth day following the date of



1 conditional receipt unless the insurer has
2 previously notified the insured in writing of its
3 disapproval of the application. The reinstated
4 policy shall cover only loss resulting from
5 accidental injury as may be sustained after the
6 date of reinstatement and loss due to sickness as
7 may begin more than ten days after that date. In
8 all other respects, the insured and insurer shall
9 have the same rights as they had under the policy
10 immediately before the due date of the defaulted
11 premium, subject to any provisions endorsed
12 hereon or attached hereto in connection with the
13 reinstatement. Any premium accepted in
14 connection with the reinstatement shall be
15 applied to a period for which premium has not
16 been previously paid, but not to any period more
17 than sixty days prior to the date of
18 reinstatement"; and

19 (B) The last sentence in subparagraph (A) may be
20 omitted from any policy that the insured has the
21 right to continue in force subject to its terms



1 by the timely payment of premiums until at least
2 age fifty or, in the case of a policy issued
3 after age forty-four, for at least five years
4 from its date of issue;

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

16 (B) In a policy providing a loss of time benefit that
17 may be payable for at least two years, an insurer
18 may at its option insert the following between
19 the first and second sentences in subparagraph
20 (A): "Subject to the qualification set forth
21 below, if the insured suffers loss of time on



1 account of disability for which indemnity may be
2 payable for at least two years, the insured
3 shall, at least once in every six months after
4 having given notice of claim, give to the insurer
5 notice of continuance of the disability, except
6 in the event of legal incapacity. The period of
7 six months following any filing of proof by the
8 insured or any payment by the insurer on account
9 of the claim or any denial of liability in whole
10 or in part by the insurer shall be excluded in
11 applying this provision. Delay in giving notice
12 shall not impair the insured's right to any
13 indemnity which would otherwise have accrued
14 during the period of six months preceding the
15 date on which notice is actually given";

- 16 (6) "Claim Forms: The insurer, upon receipt of a notice
17 of claim, will furnish to the claimant any forms that
18 are usually furnished by it for filing proofs of loss.
19 If the forms are not furnished within fifteen days
20 after the giving of notice the claimant shall be
21 deemed to have complied with the requirements of this



1 policy as to proof of loss upon submitting, within the
2 time fixed in the policy for filing proofs of loss,
3 written proof covering the occurrence, the character,
4 and the extent of the loss for which claim is made";

5 (7) "Proofs of Loss: In case of claim for loss for which
6 this policy provides any periodic payment contingent
7 upon continuing loss, written proof of loss must be
8 furnished to the insurer at its office within ninety
9 days after the termination of the period for which the
10 insurer is liable, and in case of claim for any other
11 loss within ninety days after the date of loss.

12 Failure to furnish proof of loss within the time
13 required shall not invalidate nor reduce any claim if
14 it was not reasonably possible to give proof within
15 the time required, provided proof is furnished as soon
16 as reasonably possible and in no event, except the
17 absence of legal capacity, later than fifteen months
18 from the time proof is otherwise required";

19 (8) "Time of Payment of Claims: Indemnities payable under
20 this policy for any loss other than loss for which
21 this policy provides any periodic payment shall be



1 paid immediately upon receipt of due written proof of
2 loss. Subject to due written proof of loss, all
3 accrued indemnities for loss for which this policy
4 provides periodic payment shall be paid (insert period
5 for payment which must not be less frequently than
6 monthly) and any balance remaining unpaid upon the
7 termination of liability shall be paid immediately
8 upon receipt of due written proof";

9 (9) (A) "Payment of Claims: Indemnity for loss of life
10 shall be payable in accordance with the
11 beneficiary designation and the provisions
12 respecting payment which may be prescribed herein
13 and effective at the time of payment. If no
14 designation or provision is then effective, the
15 indemnity shall be payable to the estate of the
16 insured. Any other accrued indemnities unpaid at
17 the insured's death may, at the option of the
18 insurer, be paid either to the designated
19 beneficiary or to the estate of the insured. All
20 other indemnities shall be payable to the
21 insured"; and



1 (B) Either or both of the following provisions may be
2 included with the provision set forth in
3 subparagraph (A) at the option of the insurer:

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

17 (ii) "Subject to any written direction of the
18 insured in the application or otherwise all
19 or a portion of any indemnities provided by
20 this policy on account of hospital, nursing,
21 medical, or surgical services may, at the



1 insurer's option and unless the insured
2 requests otherwise in writing not later than
3 the time of filing proofs of loss, be paid
4 directly to the hospital or person rendering
5 the services; but it is not required that
6 the service be rendered by a particular
7 hospital or person";

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

14 (11) "Legal Actions: No action at law or in equity shall
15 be brought to recover on this policy prior to the
16 expiration of sixty days after written proof of loss
17 has been furnished in accordance with the requirements
18 of this policy. No action at law or in equity shall
19 be brought after the expiration of three years after
20 the time written proof of loss is required to be
21 furnished"; and



1 (12) (A) "Change of Beneficiary: Unless the insured makes
2 an irrevocable designation of beneficiary, the
3 right to change the beneficiary is reserved to
4 the insured and the consent of the beneficiary or
5 beneficiaries shall not be requisite to surrender
6 or assignment of this policy or to any change of
7 beneficiary or beneficiaries, or to any other
8 changes in this policy"; and

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

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

14 "**§431:10A-203 Standard provisions.** Every policy of group
15 or blanket disability insurance shall contain in substance the
16 following provisions, or provisions which in the opinion of the
17 commissioner are more favorable to the individuals insured, or
18 at least as favorable to such individuals and more favorable to
19 the policyholder. No such policy of group or blanket disability
20 insurance shall contain any provision relative to notice or
21 proof of loss, or to the time for paying benefits, or to the



1 time within which suit may be brought upon the policy, which in
2 the opinion of the commissioner is less favorable to the
3 individuals insured than would be permitted by the standard
4 provisions required for individual accident and health or
5 sickness insurance policies.

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

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

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

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

20 (D) A misrepresentation, unless it is made with
21 actual intent to deceive or unless it materially



1 affects either the acceptance of the risk or the
2 hazard assumed by the insurer, shall not prevent
3 a recovery on the policy.

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

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

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

20 (A) The ages, if any, to which the insurance provided
21 shall be limited;



- 1 (B) The ages, if any, for which additional
2 restrictions are placed on benefits; and
3 (C) The additional restrictions placed on the
4 benefits at such ages.
- 5 (5) Payment of premiums. There shall be a provision that
6 all premiums due under the policy shall be remitted by
7 the employer or employers of the persons insured, by
8 the policyholder or by some other designated person
9 acting on behalf of the association or group insured,
10 to the insurer on or before the due date thereof
11 within such grace period as may be specified therein.
- 12 (6) Entire Contract; Changes: This policy, including the
13 endorsements and the attached papers, if any,
14 constitutes the entire contract of insurance. No
15 change in this policy prior to its renewal shall be
16 valid. No agent has authority to change this policy
17 or to waive any of its provisions prior to its
18 renewal."

19 SECTION 3. Section 432:1-102, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 **"§432:1-102 Applicability of other laws.** (a) Part III of
2 article 10A, and article 10H of chapter 431 shall apply to
3 nonprofit medical indemnity or hospital service associations.
4 [~~Such~~] Except for section 431:10A-105(1), associations shall be
5 exempt from the provisions of part I of article 10A; provided
6 that such exemption is in compliance with applicable federal
7 statutes and regulations."

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

10 **"§432D-23 Required provisions and benefits.**
11 Notwithstanding any provision of law to the contrary, each
12 policy, contract, plan, or agreement issued in the State after
13 January 1, 1995, by health maintenance organizations pursuant to
14 this chapter, shall include benefits provided in sections
15 431:10-212, 431:10A-105(1); 431:10A-115, 431:10A-115.5, 431:10A-
16 116, 431:10A-116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119,
17 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126,
18 431:10A-132, 431:10A-133, 431:10A-140, and 431:10A-134, and
19 chapter 431M."



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

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

6 SECTION 7. This Act shall take effect upon its approval.

7

INTRODUCED BY:

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H.B. NO. 1148

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.

