

JAN 22 2016

A BILL FOR AN ACT

RELATING TO HEALTH SAVINGS ACCOUNT PROGRAMS.

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

1 SECTION 1. The purpose of this Act is to facilitate the
2 establishment of health savings accounts in Hawaii and allow the
3 labor force to receive contributions to health savings accounts.
4 The intent is that contributions to health savings accounts be
5 used to pay or reimburse qualifying medical expenses, and that
6 the contributions receive favorable tax treatment by allowing
7 the contributions to be accumulated over the years or
8 distributed on a tax-free basis.

9 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
10 amended by adding a new section to article 10A to be
11 appropriately designated and to read as follows:

12 "§431:10A- Health savings account program; limitations;
13 definitions. (a) Each group accident and health or sickness
14 insurance policy issued or renewed in this State after July 1,
15 2016, may include an option for a group health savings program.

16 (b) An employer subject to chapter 393 may offer a health
17 savings account program to employees in addition to the group



1 accident and health or sickness insurance policy provided by an
2 insurer. An employer offering a health savings account program
3 is subject to the limitations in this subsection. The employer
4 shall:

5 (1) Provide the program to employees only as an
6 alternative option to a group accident and health or
7 sickness insurance policy, in which both the program
8 and the group accident and health or sickness
9 insurance policy provide aggregate benefits that are
10 determined pursuant to chapter 393 to be equivalent
11 and meet section 393-7(a) or (b);

12 (2) Make an annual employer contribution to the health
13 savings account of an employee enrolled in the program
14 and upon enrollment of a new employee that enrolls in
15 the program;

16 (3) Make an employer contribution of an amount equal to or
17 greater than eighty per cent of the annual deductible
18 of a high deductible health plan for self-only
19 coverage and equal to or greater than eighty per cent
20 of the annual deductible of a high deductible health
21 plan for family coverage, with the total annual



1 employer contribution not to exceed the maximum
2 contribution amount pursuant to section 223 of the
3 Internal Revenue Code of 1986;

4 (4) Contribute the annual amount to the employee's health
5 savings account prior to the first day the employee is
6 covered by the program;

7 (5) Increase the contribution amount to an employee's
8 health savings account if an employee's status changes
9 from self only coverage to family coverage during
10 program;

11 (6) Cooperate with the insurer as to proof of compliance
12 with the limitations for offering a health savings
13 account program to employees;

14 (7) Provide the declaration of understanding from the
15 insurer with the program application;

16 (8) Provide the certification obtained from the insurer as
17 to the employer's compliance with the limitations of
18 the program to the insurer; and

19 (9) Immediately remove any employee and dependents, if
20 any, from the program and place the employee and
21 dependents, if any, in the group accident and health



1 or sickness insurance policy if the employer knows the
2 program is not in compliance with this section, by
3 notifying the insurer immediately.

4 (c) Every insurer that offers, sells, or renews a group
5 accident and health or sickness insurance policy with an option
6 for a health savings account program shall:

7 (1) Include the employer limitations in this section in
8 any policy, contract, certificate, or agreement,
9 regardless of form;

10 (2) Encourage informed decisions by providing employers a
11 one-page, double-sided declaration of understanding,
12 to be included with any program application, that
13 explains in plain and simple language certain terms of
14 the program, including covered services, applicable
15 deductibles, claims processing, and the effective use
16 of the program for favorable tax treatment;

17 (3) Retain the employer's certification as to compliance
18 with the limitations of the program for five years;
19 and

20 (4) Submit to the insurance commissioner, no later than
21 June 30 of each calendar year, a state-wide basis



1 report in such form and detail as the insurance
2 commissioner shall prescribe, on the preceding
3 calendar year stating the participation rate, the
4 total dollars contributed by employers, the total
5 dollars contributed by employees, and the disbursement
6 of the deposits as a percentage of the deposits in the
7 health savings accounts.

8 (d) Unused funds in a health savings account shall become
9 the property of the health savings account holder at the end of
10 a taxable year.

11 (e) Notwithstanding any provision of law to the contrary,
12 the rights of an employee or dependent, if any, of a health
13 savings account to hold or to receive moneys paid into or out
14 of, the assets of, and the income of the health savings account:

15 (1) Shall be exempt from creditor process;

16 (2) Shall not be liable to attachment, garnishment, or
17 other process; and

18 (3) Shall not be seized, taken, appropriated, or applied
19 by any legal or equitable process or operation of law
20 to pay any debt or liability of the employee or
21 beneficiary of the account.



1
2 (f) If this section or any provision of this section
3 conflicts at any time with any federal law, then the federal law
4 shall prevail and this section or the relevant provisions of
5 this section shall become ineffective and invalid. The
6 ineffectiveness or invalidity of this section or any of its
7 provisions shall not affect any other provisions or applications
8 of this section, which shall be given effect without the invalid
9 provision or application, and to this end, the provisions of
10 this section are severable.

11 (g) As used in this section, unless the context clearly
12 requires otherwise:

13 "Family coverage" shall have the same meaning as defined in
14 section 223 of the Internal Revenue Code of 1986.

15 "Health savings account" means a health savings account
16 authorized under section 223 of the Internal Revenue Code of
17 1986.

18 "Health savings account program" or "program" means a high
19 deductible health plan with a health savings account that has
20 been approved pursuant to chapter 393 to be offered, sold, or



1 renewed with an employer-sponsored plan to an employer subject
2 to chapter 393.

3 "High deductible health plan" shall have the same meaning
4 as defined in section 223 of the Internal Revenue Code of 1986.

5 "Self only coverage" means coverage only for the employee
6 and not for dependents."

7 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
8 amended by adding a new section to article 1 to be appropriately
9 designated and to read as follows:

10 "§432:1- Health savings account program; limitations;
11 definitions. (a) Each group hospital and medical service plan
12 contract issued or renewed in this State after July 1, 2016, may
13 include an option for a group health savings program.

14 (b) An employer subject to chapter 393 may offer a health
15 savings account program to employees in addition to the group
16 hospital and medical service plan contract provided by a mutual
17 benefit society. An employer offering a health savings account
18 program is subject to the limitations in this subsection. The
19 employer shall:

20 (1) Provide the program to employees only as an
21 alternative option to a group hospital and medical



1 service plan contract, in which both the program and
2 the group hospital and medical service plan contract
3 provide aggregate benefits that are determined
4 pursuant to chapter 393 to be equivalent and meet
5 section 393-7(a) or (b);

6 (2) Make an annual employer contribution to the health
7 savings account of an employee enrolled in the program
8 and upon enrollment of a new employee that enrolls in
9 the program;

10 (3) Make an employer contribution of an amount equal to or
11 greater than eighty per cent of the annual deductible
12 of a high deductible health plan for self-only
13 coverage and equal to or greater than eighty per cent
14 of the annual deductible of a high deductible health
15 plan for family coverage, with the total annual
16 employer contribution not to exceed the maximum
17 contribution amount pursuant to section 223 of the
18 Internal Revenue Code of 1986;

19 (4) Contribute the annual amount to the employee's health
20 savings account prior to the first day the employee is
21 covered by the program;



- 1 (5) Increase the contribution amount to an employee's
2 health savings account if an employee's status changes
3 from self only coverage to family coverage during
4 program;
- 5 (6) Cooperate with the mutual benefit society as to proof
6 of compliance with the limitations for offering a
7 health savings account program to employees;
- 8 (7) Provide the declaration of understanding from the
9 mutual benefit society with the program application;
- 10 (8) Provide the one-page, double-sided declaration of
11 understanding from the mutual benefit society with the
12 program application;
- 13 (9) Provide the certification obtained from the mutual
14 benefit society as to the employer's compliance with
15 the limitations of the program to the mutual benefit
16 society; and
- 17 (10) Immediately remove any employee and dependents, if
18 any, from the program and place the employee and
19 dependents, if any, in the group hospital and medical
20 service plan contract if the employer knows the



1 program is not in compliance with this section, by
2 notifying the mutual benefit society immediately.

3 (c) Every mutual benefit society that offers, sells, or
4 renews a group hospital and medical service plan contract with
5 an option for a health savings account program shall:

6 (1) Include the employer limitations in this section in
7 any policy, contract, certificate, or agreement,
8 regardless of form;

9 (2) Encourage informed decisions by providing employers a
10 one-page, double-sided declaration of understanding,
11 to be included with any program application, that
12 explains in plain and simple language certain terms of
13 the program, including covered services, applicable
14 deductibles, claims processing, and the effective use
15 of the program for favorable tax treatment;

16 (3) Retain the employer's certification as to compliance
17 with the limitations of the program for five years;
18 and

19 (4) Submit to the insurance commissioner, no later than
20 June 30 of each calendar year, a state-wide basis
21 report in such form and detail as the insurance



1 commissioner shall prescribe, on the preceding
2 calendar year stating the participation rate, the
3 total dollars contributed by employers, the total
4 dollars contributed by employees and the disbursement
5 of the deposits as a percentage of the deposits in the
6 health savings accounts.

7 (d) Unused funds in a health savings account shall become
8 the property of the health savings account holder at the end of
9 a taxable year.

10 (e) Notwithstanding any provision of law to the contrary,
11 the rights of an employee or dependent, if any, of a health
12 savings account to hold or to receive moneys paid into or out
13 of, the assets of, and the income of the health savings account:

14 (1) Shall be exempt from creditor process;

15 (2) Shall not be liable to attachment, garnishment, or
16 other process; and

17 (3) Shall not be seized, taken, appropriated, or applied
18 by any legal or equitable process or operation of law
19 to pay any debt or liability of the employee or
20 beneficiary of the account.



1 (f) If this section or any provision of this section
2 conflicts at any time with any federal law, then the federal law
3 shall prevail and this section or the relevant provisions of
4 this section shall become ineffective and invalid. The
5 ineffectiveness or invalidity of this section or any of its
6 provisions shall not affect any other provisions or applications
7 of this section, which shall be given effect without the invalid
8 provision or application, and to this end, the provisions of
9 this section are severable.

10 (g) As used in this section, unless the context clearly
11 requires otherwise:

12 "Family coverage" shall have the same meaning as defined in
13 section 223 of the Internal Revenue Code of 1986.

14 "Health savings account" means a health savings account
15 authorized under section 223 of the Internal Revenue Code of
16 1986.

17 "Health savings account program" or "program" means a high
18 deductible health plan with a health savings account that has
19 been approved pursuant to chapter 393 to be offered, sold, or
20 renewed with an employer-sponsored plan to an employer subject
21 to chapter 393.



1 "High deductible health plan" shall have the same meaning
2 as defined in section 223 of the Internal Revenue Code of 1986.

3 "Self only coverage" means coverage only for the employee
4 and not for dependents."

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

7 **"§432D-23 Required provisions and benefits.**

8 Notwithstanding any provision of law to the contrary, each
9 policy, contract, plan, or agreement issued in the State after
10 January 1, 1995, by health maintenance organizations pursuant to
11 this chapter, shall include benefits provided in sections
12 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
13 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
14 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
15 431:10A-133, [and] 431:10A-140, 431:10A-_____, and chapter 431M."

16 SECTION 5. Notwithstanding section 432D-23, Hawaii Revised
17 Statutes, the group health savings account program to be
18 provided by a health maintenance organization under section 4 of
19 this Act shall apply to all group policies, contracts, plans, or
20 agreements issued or renewed in the state by a health
21 maintenance organization after July 1, 2016.



S.B. NO. 2665

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

3 SECTION 7. This Act shall take effect on July 1, 2016.
4

INTRODUCED BY: Realy H. Baker

Michelle Kedoni

El Rivas

JM

~~Dr. Sabarwal~~

Mike Gehring

Jozanne Chun Oakland



S.B. NO. 2665

Report Title:

Health Savings Account Program; Insurance Code; Mutual Benefit Society; Health Maintenance Organizations

Description:

Authorizes employers to establish group health savings accounts in addition to group accident and health or sickness insurance policies, group hospital and medical service plan contracts, and HMO plans issued or renewed after July 1, 2016.

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

