

JAN 19 2007

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HAWAII HEALTH INSURANCE PURCHASING POOL

6 § -1 Definitions. Whenever used in this chapter, unless
7 the context otherwise requires:

8 "Commissioner" means the state insurance commissioner.

9 "Eligible employee" means a person employed in the
10 employment of any one employer who is not eligible for coverage
11 under chapter 393, the prepaid health care act, and includes
12 sole proprietors and partners of a partnership.

13 "Employer" has the same meaning as defined in section 393-
14 3(3).

15 "Employment" has the same meaning as defined in section
16 393-3(4); provided that the term includes service performed by
17 an individual in the employ of the individual's spouse, son, or
18 daughter, and service performed by an individual under the age



1 of twenty-one in the employ of the individual's father or
2 mother.

3 "Health care plan" means any agreement by which any health
4 care plan carrier undertakes in consideration of a stipulated
5 premium:

6 (1) Either to furnish health care, including
7 hospitalization, surgery, medical or nursing care,
8 drugs or other restorative appliances, subject to, if
9 at all, only a nominal per service charge; or

10 (2) To defray or reimburse, in whole or in part, the
11 expenses of health care.

12 "Health care plan carrier" or "carrier" means:

13 (1) Any medical group or organization which undertakes
14 under a health care plan to provide health care;

15 (2) Any nonprofit organization which undertakes under a
16 health care plan to defray or reimburse in whole or in
17 part the expenses of health care; or

18 (3) Any insurer who undertakes under a health care plan to
19 defray or reimburse in whole or in part the expenses
20 of health care.

21 "Program" means the Hawaii health insurance purchasing
22 pool.



1 § -2 Hawaii health insurance purchasing pool;
2 established. (a) The Hawaii health insurance purchasing pool
3 is hereby established. The commissioner shall administer the
4 program as provided by this chapter.

5 § -3 Powers of the commissioner. The commissioner may:

- 6 (1) Enter into contracts with carriers to provide health
7 care coverage to eligible employees and their
8 dependents. Any contract entered into pursuant to
9 this chapter shall be exempt from chapter 103D. The
10 commissioner shall not be required to specify the
11 amounts encumbered for each contract, but may allocate
12 funds to each contract based on projected and actual
13 subscriber enrollments;
- 14 (2) Enter into other contracts as are necessary or proper
15 to carry out this article;
- 16 (3) Employ necessary staff;
- 17 (4) Sue or be sued, including taking any legal actions
18 necessary or proper for recovering any penalties for,
19 on behalf of, or against, the Hawaii health insurance
20 purchasing pool or the commissioner;
- 21 (5) Define the health care coverage that the program will
22 purchase from carriers;



- 1 (6) Appoint committees as necessary to provide technical
- 2 assistance in the operation of the program;
- 3 (7) Assess participating employers a reasonable fee for
- 4 necessary costs in connection with the program;
- 5 (8) Undertake activities necessary to administer the
- 6 program, including the establishment of rules,
- 7 conditions, and procedures for participation;
- 8 marketing and publicizing the program; and assuring
- 9 carrier, employer, and enrollee compliance with
- 10 program requirements;
- 11 (9) Establish a financial relationship directly with
- 12 producers or insurance brokers to provide services
- 13 pursuant to the program;
- 14 (10) Approve the health care plans of carriers
- 15 participating in the pool;
- 16 (11) Adopt rules pursuant to chapter 91 to administer the
- 17 program; and
- 18 (12) Exercise all powers reasonably necessary to carry out
- 19 the commissioner's responsibilities under this
- 20 chapter.

21 § -4 **Contracts with carriers.** On or after the effective
22 date of this article, the commissioner shall enter into



1 contracts with carriers for the purpose of providing health care
2 coverage to eligible employees. Operating characteristics of
3 participating carriers shall include:

4 (1) Strong financial condition, including the ability to
5 assume the risk of providing and paying for covered
6 services. A participating carrier may utilize
7 reinsurance, provider risk sharing, and other
8 appropriate mechanisms to share a portion of the risk;

9 (2) Adequate administrative management;

10 (3) A system for identifying in a simple and clear fashion
11 both in its own records and in the medical records of
12 subscribers and enrollees of the health care plan the
13 fact that the services provided are provided under the
14 program;

15 (4) A satisfactory grievance procedure; and

16 (5) Where carriers contract with or employ health care
17 providers, adequate mechanisms to:

18 (A) Review the quality of care provided;

19 (B) Review the appropriateness of care provided; and

20 (C) Ensure that health care services are accessible.

21 § -5 **Carrier selection.** The commissioner shall contract
22 with a broad range of carriers, if available, to ensure that



1 enrollees have a choice from among a reasonable number and types
2 of competing carriers. The commissioner shall develop and make
3 available objective criteria for carrier selection and provide
4 adequate notice of the application process to permit all
5 carriers a reasonable and fair opportunity to participate. The
6 criteria and application process shall allow participating
7 carriers to comply with their state and federal licensing and
8 regulatory obligations, except as otherwise provided in this
9 chapter. Carrier selection shall be based on criteria developed
10 by the commissioner. The administrator shall not eliminate any
11 carrier from selection solely because of the carrier's size or
12 limited service area.

13 **§ -6 Marketing and servicing contracts allowed.**

14 Participating carriers may contract with producers or insurance
15 brokers to provide marketing and servicing of health care
16 coverage offered through the program. Any commissions shall be
17 determined by the participating carrier and the producer or
18 insurance broker.

19 **§ -7 Conditions of participation; enforcement.** The

20 commissioner shall set and enforce conditions of participation
21 in the program for employers and enrollees which shall conform
22 with the requirements of this chapter.



1 § -8 **Premium collections.** The commissioner shall
2 establish a mechanism to collect premiums from employers,
3 including remittance of the share of the premium paid by the
4 enrollee.

5 § -9 **Reenrollment restrictions.** The commissioner may
6 prohibit employers or employees who drop coverage after
7 enrolling in the pool from reenrolling in the program for up to
8 twelve months.

9 § -10 **Rates offered.** Premiums shall not exceed one
10 hundred and ten percent of the median price of health insurance
11 offered within the state calculated on an annual basis.

12 § -11 **Right to appeal.** An employer or eligible employee
13 may appeal decisions on eligibility for or enrollment in the
14 program to the commissioner, and shall be accorded an
15 opportunity for a fair hearing.

16 § -12 **Transfer of administrative and fiscal**
17 **responsibility for the program.** (a) No later than three years
18 from the effective date of this chapter, the commissioner shall
19 issue a request for proposals soliciting nonprofit entities to
20 submit bids to assume administrative and fiscal responsibility
21 for operation of the program. The commissioner shall assess a
22 bidder's qualifications in the areas of administrative capacity,



1 financial responsibility, local experience, and demonstrated
2 ability. Within six months of issuing the request for
3 proposals, the commissioner shall select a nonprofit entity from
4 among the qualified bidders and award administrative and
5 financial responsibility for the program to the selected
6 nonprofit entity. If no qualified nonprofit entity submits a
7 bid pursuant to the commissioner's request for proposals one
8 year from the date that bids were due, the commissioner shall
9 reissue a request for proposals if the commissioner has reason
10 to believe that a qualified nonprofit entity will submit a bid.
11 The commissioner shall provide for an orderly transfer of
12 administrative and financial responsibility for the program to
13 the successful nonprofit entity.

14 (b) At any time prior to the time set in subsection (a) a
15 nonprofit entity may submit and the commissioner shall accept
16 and review a proposal for the assumption of administrative and
17 financial responsibility of the program. If the commissioner
18 determines that a qualified entity exists, the commissioner may
19 relinquish administrative and financial responsibility for the
20 program to the nonprofit entity.

21 (c) Any contract entered into pursuant to this section
22 shall be exempt from chapter 103D.



1 § -13 Administrator conflicts of interest prohibited.

2 (a) No decision maker for any nonprofit entity that assumes
3 administrative and fiscal responsibility for operation of the
4 program pursuant to section -12 shall make, participate in
5 making, or attempt to use the decisionmaker's official position
6 to influence the making of any decision that the decisionmaker
7 knows or has reason to know will have a reasonably foreseeable
8 material financial effect, distinguishable from its effect on
9 the public generally, on the decisionmaker or a member of the
10 decisionmaker's immediate family, or on any of the following:

11 (1) Any source of income received by or promised to the
12 commissioner or to a decisionmaker for a nonprofit
13 entity that assumes administrative and fiscal
14 responsibility for operation of the program pursuant
15 to section -12 within twelve months prior to the
16 time when the decision is made, other than gifts and
17 other than loans by a commercial lending institution
18 in the regular course of business on terms available
19 to the public without regard to official status
20 aggregating \$250 or more in value; or

21 (2) Any business entity in which the commissioner or
22 decisionmaker for a nonprofit entity that assumes



1 administrative and fiscal responsibility for operation
2 of the program pursuant to section -12 is a director,
3 officer, partner, trustee, employee, or holds any
4 position of management.

5 (b) Commencing January 1, 2005, neither the commissioner
6 nor a decisionmaker for any nonprofit entity that assumes
7 administrative and fiscal responsibility for the program
8 pursuant to section -12 may hold a position as an employee of,
9 consultant to, or member of the board of directors of any
10 carrier, insurance broker, or producer doing business in the
11 state.

12 § -16 Hawaii health insurance purchasing pool special
13 fund. There is created a Hawaii health insurance purchasing
14 pool special fund. The fund shall consist of moneys collected
15 pursuant to this article, legislative appropriations for the
16 commissioner's operating expenses, and any interest or earnings
17 on moneys deposited into the fund. Moneys within the fund shall
18 be utilized for the purposes of this article; provided that the
19 commissioner's operating expenses shall not be paid with moneys
20 other than those appropriated by the legislature for that
21 purpose."



1 SECTION 2. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2007-2008 and the
4 sum of \$ or so much thereof as may be necessary for
5 fiscal year 2008-2009 for the operating expenses of the Hawaii
6 health insurance purchasing pool.

7 The sums appropriated shall be expended by the department
8 of commerce and consumer affairs for the purposes of this Act.

9 SECTION 3. This Act shall take effect on July 1, 2007.

10

INTRODUCED BY: Amid y Jee



Report Title:

Health Insurance Purchasing Pool for Employees without Coverage

Description:

Authorizes the Insurance Commissioner to administer then transfer to a non-profit agency, a purchasing pool giving employers access to reduced-cost health care coverage for part-time and temporary employees, sole proprietors, and family businesses not covered under the Prepaid Health Care Act.

