

Hawaii

Hawaii Insurance Commission
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Summary of Important Regulations

MEWA Regulations	No
TPA Regulations	No
Stop-Loss Regulations	No
UR Regulations	Yes

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	None	Hawaii Rev. Stat. § 431:5-303
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	None	None
Small Employer Health Insurance Availability Model Law	None	Hawaii Rev. Stat. § 431:2-201.5
Model Regulation To Eliminate Unfair Sex Discrimination	None	None
Health Information Privacy Model Law	None	HB 351
Preferred Provider Arrangements Model Law	None	None
Utilization Review Model Law	None	None
Managed Care Plan Network Adequacy Model Law	None	None
Third Party Administrator Law	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	None	None
Agents and Brokers Licensing Model Law	None	Hawaii Rev. Stat. §§ 431-9-101 to 431:9-240
MEWA Licensing Model Law	None	None
Managing General Agents Law	Hawaii Rev. Stat. §§ 431:9A-101 to 431:9A-108	None
Health Maintenance Organization Model Law	Hawaii Rev. Stat. §§ 432D-1 to 432D-24	None
Insurance Information and Privacy Protection Law	Hawaii Rev. Stat. §§ 431:17-101 to 431:17-106	None
Unfair Trade Practices Law	Hawaii Rev. Stat. §§ 431:13-101 to 431:13-204	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness	Hawaii Ins. Rules & Regs. §§ 16-10-1 to 16-10-4	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	Hawaii Rev. Stat. § 431:10-217.5
Unfair Claims Settlement Practices Law	Hawaii Rev. Stat. § 431:13-103	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self- Insurance Model Law	None	None
Public Employee Workers' Compensation Group Self- Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

State-Mandates

Benefits That Must Be Covered

- Alcoholism treatment
- Ambulatory surgery
- Breast reconstruction
- Contraceptives
- Diabetic supplies, education
- Drug abuse treatment
- Emergency services
- Formula for PKU
- Infertility services and/or invitro fertilization
- Mammography screening
- Maternity care
- Mental health, general
- Mental health, parity
- Minimum maternity stays
- Well-child care

Benefits That Must Be Offered

None

Persons Who Must Be Allowed Coverage

- Adopted children
- Continuation/employees
- Handicapped dependents
- Newborns

Providers Who Must Be Covered

- Dentists
- Optometrists
- Psychologists

Coordination of Benefits

- Birthday Rule? Hawaii
- Divorced/Separated Rule? does
- Joint Custody Rule? not
- Longer v. Shorter Rule? have a
- Managed Care Rule? COB
- COBRA Rule? Law or

- Preservation Rule?

Regulation

Continuation or Conversion

None

Patient's Bill of Rights Legislation

None

High Risk Health Pool

None

External Grievance System

Yes - all health plans

Basis of Filing Grievance

All grounds except medical malpractice

Status of Decision of Grievance Panel

Appealable to the state court

Prompt Payment of Health Claim Requirement

Yes - 30 days

Commentary

Inpatient hospital care must be provided for at least 120 days a year covering room accommodations, regular and special diets, general nursing services, use of the operating room, surgical supplies, anesthesia services and supplies, and drugs, dressing, oxygen, antibiotics, and blood transfusion service.

Outpatient care covering the use of an outpatient hospital and facilities for surgical procedures or emergency and urgent medical care must be provided.

Surgical benefits consisting of surgical services performed by a licensed physician, after care visits for a reasonable period, and anesthesiologist services.

Medical benefits including necessary home, office, and hospital visits by a licensed physician, intensive medical care while hospitalized, and medical or surgical consultation while confined must be provided.

Diagnostic laboratory services, X-ray films, and radio-therapeutic services necessary for diagnosis or treatment of injuries or diseases must be provided.

Maternity benefits must be provided where the employee has been covered by the prepaid health care plan for nine consecutive months before the delivery. Moreover, all group hospital or medical service plan contracts and group accident and sickness insurance policies must provide coverage for alcohol and drug abuse treatment and mental health treatment.

All employer group health plans that provide for payment of reimbursement for pregnancy-related services must provide, as an employer option, contraceptive services for employees and their dependents. In addition, employer group health policies that provide prescription drug coverage must provide benefits for any FDA-approved prescription contraception drug or device and cannot impose any unusual copayment, charge, or waiting requirement for such a drug or device.

Hawaii law mandates that use of the state's *Telehealth* network is covered under all plans.

Hawaii insurers and HMOs are forbidden to discriminate against any insured or proposed insured on the

basis that the individual is a victim of domestic violence.

MEWA Regulation

None.

TPA Regulations

None.

Stop-Loss Regulation

None. Stop-loss agreements must be filed with the state. Stop-loss is classed as property and casualty insurance.

Utilization Review Regulations

Agency Responsible ¹	Dept. of Health
Requirements	Registration
Exemptions	None
Waivers	None
Comments	Public access must be allowed to UR criteria for mental and substance abuse cases.

Miscellaneous

State Premium Taxes

Hawaii taxes commercial insurers at 4.265%, but assesses no premium taxes on Blue Cross or HMOs.

Prepaid Healthcare Act in General

An overview of the Hawaii Prepaid Health Care Act follows. All state employers must comply with this statute. This statute is given special treatment by ERISA. A reproduction of this provision of ERISA follows. The reason is traceable to the court case, *Standard Oil Company v. Agsalud*.²

Overview of Hawaii Prepaid Health Care Act³

Findings and purpose. The cost of medical care in case of sudden need may consume all, or an excessive part, of a person's resources. Prepaid health care plans offer a certain measure of protection against such emergencies. It is the purpose of this act in view of spiraling cost of comprehensive medical care, to provide this type of protection for the employees in this state. Although a large segment of the labor force in

the state already enjoys coverage of this type, either by virtue of collective bargaining agreements, employer-sponsored plans, or individual initiative, there is a need to extend that protection to workers who at present do not possess any, or possess only inadequate prepayment coverage.

This act shall not be construed to interfere with, or diminish, any protection pursuant to collective bargaining agreements or employer-sponsored plans, which is more favorable to the employees benefited thereby, than the protection provided by this chapter or at least equivalent thereto, provided that presently existing collective bargaining agreements shall not be affected by the provisions of this section.

Special ERISA Provision Relating to Hawaii Prepaid Health Care Act

(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Act.

(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) –

(i) Any state tax relating to employee benefit plans, or

(ii) Any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than effective administration of such act as in effect on such date.

(C) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle (29 USC § 1311 *et seq.*) to the extent they govern matters which are by the provisions of such part 1 and 4 (29 USC §§ 1021 *et seq.*, 1101 *et seq.*) shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after the date of enactment of this paragraph (enacted Jan. 14, 1983), but the Secretary may enter into cooperative arrangements under this paragraph and Section 506 (29 USC § 1136) with officials of the state of Hawaii to assist them in effectuating the policies or provisions of such act which are superseded by such parts 1 and 4 (29 USC §§ 1021 *et seq.*, 1101 *et seq.*) and the preceding sections of this part (29 USC §§ 1131 *et seq.*).

U.S. Employers with Hawaiian Branches

For self-funded employer plans, the question arises: Are employers exempt from these state mandates due to ERISA? No. The employer would still have to provide the state mandated package of benefits. And the employer, or TPA, would have to submit an application along with copies of the plan document, financial information, etc. The Hawaii Prepaid Health Care Act requires that all employers provide a mandated package of benefits to their full-time employees. Blue Shield and the Kaiser Foundation cover most of the persons in Hawaii.

Endnotes

¹ Hawaii Rev. Stat. §§ 33 AB-1 *et seq.*

² 623 F.2d (9th Cir.), *aff'd*, 454 U.S. 801 (1982).

³ Hawaii Rev. Stat. §§ 393-1 to 393-51.