



DISABILITY AND COMMUNICATION ACCESS BOARD

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February 20, 2019

TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

Senate Bill 1027, SD1 - Relating to Hearing Aids

The Disability and Communication Access Board (DCAB) supports Senate Bill 1027, SD1 that requires health insurance providers and contracts issued after December 31, 2019 to provide coverage for the cost of hearing aids up to \$1,500 per hearing aid for each ear with hearing impairment, and that the aids may be changed every thirty-six months, as needed. These recommendations were from the Legislative Auditor's Study completed in October 2014.

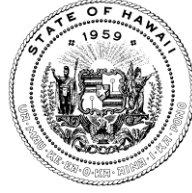
Currently, private health insurance plans provide partial coverage for eyeglasses to correct vision, and some provide partial coverage for hearing aids. Hearing is an equally important sense upon which an individual depends for communication, so an individual with a hearing loss would have improved coverage for hearing aids through a private insurance carrier. For children, it is crucial for them to use their residual hearing to develop language at an early age.

Senate Bill 1027, SD1 addresses the concerns from the Auditor's sunrise review that was received by the Hawaii State Legislature on January 14, 2015. Since the sunrise review was completed in October 2014, we request that these changes incorporated into state law and take effect upon approval. The increase in insurance coverage would allow individuals with hearing difficulties a wider variety of hearing aids that will assist them in functioning in their daily lives.

Thank you for the opportunity to testify.

Respectfully submitted,

FRANCINE WAI
Executive Director



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Ways and Means
Thursday, February 21, 2019
10:00 a.m.
State Capitol, Conference Room 211**

**On the following measure:
S.B. 1027, S.D. 1, RELATING TO HEARING AIDS**

WRITTEN TESTIMONY ONLY

Chair Dela Cruz and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to require health insurance policies and contracts issued after 12/31/19 to provide coverage for the cost of hearing aids at a minimum of \$1,500 per hearing aid for each hearing-impaired ear every 36 months. This bill also exempts itself from the State Auditor's impact assessment report requirement under Hawaii Revised Statutes (HRS) section 23-51.

This bill may be viewed as a new mandate. The addition of new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (PPACA), which requires states to defray the additional cost of any benefits in

excess of the essential health benefits of the State's qualified health plan under the PPACA.

Additionally, any proposed mandate providing coverage for care requires the passage of a concurrent resolution requesting the State Auditor to prepare and submit a report assessing the social and financial impacts of the proposed mandate, pursuant to HRS section 23-51. Although page 3, lines 3-14 of this bill notes the State Auditor published Report No. 14-10 in 2014, that report addressed S.B. 309, S.D.1 (Regular Session of 2013), whose language deviates from this bill. Notably, this bill contains a minimum benefit of \$1,500 per hearing-impaired ear every 36 months, whereas S.B. 309 contained no benefit limitations. Therefore, an impact assessment pursuant to HRS section 23-51 was not completed for this measure

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

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TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON SENATE BILL NO. 1027 S.D. 1

February 21, 2019
10:00 a.m.
Room 211

RELATING TO HEARING AIDS

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not taken a position on this bill. EUTF staff would like to provide estimates of the cost impact.

This bill mandates coverage of hearing aids at a minimum of \$1,500 per hearing aid for each hearing-impaired ear every thirty-six months. If the EUTF plans were enhanced to this benefit level, it would add approximately \$567,000 and \$2.0 million in annual claims to the EUTF employee and retiree plans, respectively. It is estimated that such an increase in claims to the retiree plans would increase the State and counties unfunded liability by \$41.8 million.

Thank you for the opportunity to testify.

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide informed service that is excellent, courteous, and compassionate.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1027, S.D. 1, RELATING TO HEARING AIDS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, February 21, 2019 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Daniel K. Jacob,
Deputy Attorney General, at 808-586-1190)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General makes the following comments.

The purpose of this bill is to require insurance companies to provide coverage for hearing aids for all types of hearing loss, as well as to specify a minimum amount of coverage and the frequency for replacement of hearing aids under the coverage. The bill also provides that the coverage mandated by the bill shall not be subject to an employer's option.

A phrase in this bill may subject the bill to an Employee Retirement Income Security Act (ERISA) preemption challenge. ERISA is a comprehensive federal legislative scheme that "supersede[s] any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U.S.C.A. § 1144(a).¹ A state law relates to an ERISA plan and is preempted if it has either an impermissible connection with an ERISA plan or an impermissible reference to an ERISA plan. *New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Ins. Co.*, 514 U.S. 645, 646, 115 S. Ct. 1671, 1672 (1995). This bill may be preempted because of arguable

¹ The subsection, in full, provides as follows:

Except as provided in subsection (b) of this section, the provisions of this subchapter and subchapter III of this chapter shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 1003(a) of this title and not exempt under section 1003(b) of this title. This section shall take effect on January 1, 1975.

references to an ERISA plan on page 4, line 9, and page 6, line 4, which appear to state that the coverage mandated by the bill shall not be at the option of the employer. The reference to “an employer option” may be construed as a reference to an ERISA plan. We note, however, that if all insurance plans must provide this coverage, any plan an employer would purchase for an employee would be required to include coverage for hearing aids in the event this bill became law. Therefore, we recommend that the wording “not as an employer option” be removed from the bill.

Furthermore, under section 1311(d)(3)(B) of the Affordable Care Act and 45 C.F.R. section 155.170, a state may only require a Qualified Health Plan to add benefits if the state defrays the cost of the additional benefits, unless the proposed new benefit is directly attributable to State compliance with Federal requirements to provide Essential Health Benefits after December 31, 2011.

This bill would require Qualified Health Plans to provide coverage for the cost of hearing aids and to specify a minimum amount of coverage and the frequency for replacement of hearing aids under the coverage. Because this benefit was neither mandated by state law prior to December 31, 2011, nor directly attributable to compliance with Federal requirements after December 31, 2011, it may be considered an additional mandate. If so, the State may be required to defray the cost.

At this time, our department is unaware of a state that has been subjected to the obligation to defray the cost for additional benefits. Therefore, there are no prior examples of how the State would meet its obligation and what specific procedures would be necessary to fulfill the obligation. Our department’s best understanding is that after the Qualified Health Plan issuer submits the issuer’s costs attributable to the additional mandate, the Legislature would need to appropriate the money during the following legislative session and propose a mechanism to distribute the money.

Thank you for the opportunity to comment.

SB-1027-SD-1

Submitted on: 2/19/2019 11:49:45 PM

Testimony for WAM on 2/21/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

SB-1027-SD-1

Submitted on: 2/20/2019 8:36:54 AM

Testimony for WAM on 2/21/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Stone-Walls	Testifying for Maui County Office on Aging	Support	No

Comments:



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House
Committee on Ways and Means
Thursday, February 21, 2019
10:00 a.m.
Conference Room 211

To: Senator Dela Cruz, Chair
RE: Support for SB1027 SD1, Relating to Hearing Aids

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee:

My name is Jessica Wooley and I am the Advocacy Director for AARP Hawaii. AARP is a membership-based organization of people age fifty and over with about 150,000 members in Hawaii. AARP advocates for issues that matter to Hawaii families, including the high cost of long-term care, access to affordable, quality health care for all generations and serving as a reliable information source on issues critical to people over the age of fifty.

AARP Hawaii supports SB1027 SD1 to require insurance policies provide coverage for the cost of hearing aids at a minimum of \$1500 per hearing aid for each hearing-impaired ear.

Mahalo for the opportunity to support SB1027 SD1.

Testimony of
John M. Kirimitsu
Legal and Government Relations Consultant

Before:
Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

February 21, 2019
10:00 am
Conference Room 211

SB 1027 SD1 Relating to Hearing Aids

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on this bill mandating hearing aid insurance coverage.

Kaiser Permanente Hawaii would like to offer comments.

Kaiser's position on proposed legislative mandates of health coverage is that they are usually not a good idea, for several reasons:

1. First, because they generally tend to raise the cost of delivering health care, thereby resulting in higher premiums and increased cost to the purchasers and payors of health plan coverage, whether they be employer groups or individuals;
2. Second, because they often tend to dictate how medicine should be practiced, which sometimes results in medicine that is not evidence based and usurps the role and expertise of the practicing physician and other health care professionals who provide medical treatment and services; and
3. Finally, because they often lock in statutory requirements that become outdated and do not keep pace with the ever evolving and advancing fields of medicine and medical technology.

Accordingly, Kaiser is concerned that the new minimum benefit coverage requirement, i.e., \$1,500, will divert the focus away from medical care, i.e., what is medically appropriate, and instead focus on purely financial incentives, i.e., choosing more costly products, which may or

may not be more effective. Kaiser is also concerned that if this bill locks in a statutorily required \$1,500 minimum benefit amount, future legislative action will always be necessary to repeal this statutory requirement if it becomes outdated, i.e., due to future price increases. Thus, every time there is a substantial increase in the price of hearing aids, i.e., due to technological/scientific advances, then this \$1,500 minimum benefit amount may become outdated and the legislature may be called upon to continuously revisit this issue.

Thank you for your consideration.

Re: SB1027 SD1 Relating to Hearing Aids February 21, 2019 10:00

Rm. 211

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and committee members

I am a senior citizen and a resident of House District 19 and Senate District 9. I am a member of AARP, Kokua Council, the Hawaii Alliance for Retired Americans and serve on the PABEA Legislative Committee.

I am writing in strong support of SB1027 requiring insurance companies to provide coverage for the cost of hearing aids at \$1500 per hearing aid, per hearing impaired ear.

The ability to hear well is critical to socialization in persons of any age. Hearing loss can lead to withdrawal from social interaction and promote loneliness, which is directly related to premature death.

It is of vital importance that persons can continue to hear well so that they can continue to enjoy activities which are meaningful to them.

Please pass SB1027 SD1 to require insurance companies to provide coverage for the cost of hearing aids at \$1500.

Thank you for the opportunity to testify.

Barbara J. Service MSW (ret.)

SB-1027-SD-1

Submitted on: 2/20/2019 9:29:45 AM

Testimony for WAM on 2/21/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Ching, MD, MPH	Individual	Support	No

Comments:

Dear Senator Dela Cruz and Senator Keith-Agaran,

I support SB1027. This bill will help not just our kupuna but also keiki who are hearing impaired. I am a developmental behavioral pediatrician and specialize in the care of children with developmental disabilities. I have patients with severe hearing loss that require hearing aids to help with their language development. If they are not able to receive timely hearing amplification, they may never learn to communicate effectively. They may be subjected to a lifetime of disability, underemployment, and behavioral health issues. Helping families to access medically necessary hearing aids for their children prevents disability, and I urge you to pass this bill from your committee.

Respectfully,

Michael Ching, MD, MPH, FAAP

February 20, 2019

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Re: SB 1027, SD1 – Relating to Hearing Aids

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1027, SD1, which requires health insurance policies and contracts issued after 12/31/19 to provide coverage for the cost of hearing aids at a minimum of \$1,500 per hearing aid for each hearing-impaired ear every thirty-six months. Exempts mandatory health care coverage from impact assessment report.

HMSA appreciates the intent of SB 1027, SD1, as the cost of hearing aid devices can be a significant expenditure for individuals and families. HMSA's commercial plans currently provide coverage for hearing aid replacements at the rate of one hearing aid per ear every sixty months. With respect to this Bill, HMSA has the following comments and concerns:

- We have concerns with including a minimum benefit of \$1500 per device. The decision on the type of device a member may require should be based primarily on medical necessity rather than the cost. The Committee may wish to consider using “medically appropriate hearing aid models (analog, digital, digitally programmable) with standard features,” instead of a fixed dollar amount.
- The Committee may want to consider amending Section 2(f) to require notification of policy change be provided to members through their plan's website. This tends to be more accessible, efficient, and timely for individual members than mailing written notices of policy change.
- Finally, this Bill proposes to create a new mandated health benefit and therefore would require a formal auditor's report pursuant to HRS 23-51, to assess what the social and financial costs would be if a mandated minimum cost (\$1500) was ascribed with the hearing aid benefit, which was not covered in the last report.



Thank you for allowing us to testify on SB 1027, SD1. Your consideration of our comments is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pono Chong', with a long, sweeping flourish extending to the right.

Pono Chong
Vice President, Government Relations