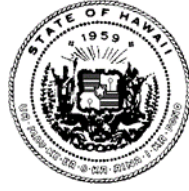


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 5, 2023

TO: The Honorable Representative John M. Mizuno, Chair
House Committee on Human Services

The Honorable Representative Della Au Belatti, Chair
House Committee on Health & Homelessness

FROM: Cathy Betts, Director

SUBJECT: [HB 1357](#) - RELATING TO CARE HOMES.

Hearing: February 7, 2023, 8:45 a.m.
Conference Room 329 & Videoconferencing, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this measure. DHS respectfully requests that any appropriation not replace or reduce priorities identified in the executive budget and forthcoming Governor's Messages.

PURPOSE: This bill appropriates funds for back payments for each Medicaid-eligible client cared for by certain care homes over the last fourteen years.

This measure proposes "back payments" of \$2500 for each Medicaid-eligible client based on the incorrect statement that no increases had occurred for 14 years. Indeed, there have been regular annual increases for the care homes that DHS reimburses. These increases are published annually, and the memos are available on the DHS Med-QUEST website.

Also, DHS does not reimburse Adult Residential Care Homes – Type I for home and community-based services since they do not provide the Level of Care required to qualify for home and community-based services. Nor does DHS reimburse Developmental Disabilities

domiciliary homes; instead, the Department of Health's Developmental Disabilities Division develops the rates and pays for those homes.

Finally, there are no provisions for "back pay" in Medicaid. When providers are paid for their services, the Medicaid payments are considered final unless appealed. No such appeals were received. Therefore, if such payments are to be made, they would be paid using 100% state general funds and not federal Medicaid matching dollars.

Finally, if the intent is to increase rates for care homes that DHS reimburses prospectively, HB 1341 does include an appropriation for increased rates based on a comprehensive HCBS rate study by DHS.

Thank you for the opportunity to provide comments on this measure.

HB-1357

Submitted on: 2/4/2023 3:56:41 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Rosemarie S. Sebastian	ILWU Local 1000	Support	Written Testimony Only

Comments:

Hello:

I am writing to you to ask for your support for the licensed home operators in Hawaii. We are health care contractors for the State of Hawaii. We care for the impoverished and the medicaid benefit recipients--who are unable to care for themselves. We provide for their housing, meals and snacks, daily needs, supervision (24/7, 365 days/year), and in some cases, medical care & provide transportations, and medicine monitoring.

Inflation in costs to provide care and to feed our clients/patients has skyrocketed but we have received NO significant increase in payments from the State in fourteen of the last 15 years.

We, licensed caregivers, also are burdened with over-regulation in the form of unannounced inspections of our homes and yearly fingerprinting of all our family household members--even a disabled family member--in a wheel chair--is required to do finger printing!

The State has also eliminated benefits to licensed home operators like respite care time and continuing education/training.

Your kind support and vote for the aforementioned bill(s) would be greatly appreciated. Thank you!

Sincerely yours,

Rosemarie S. Sebastian, Treasurer

ILWU LOCAL 1000

99-079 Kauhale St., Aiea, HI 96701

HB-1357

Submitted on: 2/5/2023 6:33:18 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Juanita Ulep	Local 1000 ILWU	Support	Written Testimony Only

Comments:

Chair Rep. Della An-Bellati

Vice Chair Rep. Jenna Takenouchi

Member of the committee

Legislative 2023

I am in support of H.B No. 1357, relating to back pay for CCFFH, ARCH Type 1, EARCH and DDDOM, home care providers.

My name is Juanita A, Ulep, with Type 1 ARCH license and a care provider for forty eight (48) years. For fourteen (14) years, there was no increase provided for us.

So please help us support the bill for us to survive.

Thank you.

JUANITA A. ULEP

Local 1000, ILWU

Trustee

HB-1357

Submitted on: 2/5/2023 8:32:13 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Maria Corazon E. Cariaga	Big Island Adult foster home operators	Support	Written Testimony Only

Comments:

Good morning, on behalf of the Big Island Adult Foster Home Care Operators I am supporting this HB1357 . I believe CAREGIVERS in the E- ARCH and in the Community Care Foster Family Home are entitled to any financial support more than what they are receiving for their current reimbursement . These caregivers are the unsung heroes of our State so they should be given what they deserve most. Thank you for allowing me to submit my testimony.

TESTIMONY FOR PAYBACK

I strongly support House Bill 1357

My name is Jesusa Quinabo, ILWU Local 1000 president, and a licensed care home operator in Pearl City, Hawaii.

For the past 28 years, I have woken up each morning at 6 am to attend to the needs of my 5 Dementia patients with associated other disorders. I start my day encouraging my 2 residents to do their own morning routine like using the bathroom, combing their hair, brushing their teeth, and putting on their own dentures. At the same time, assisting a resident to do the same. On the other rooms, 2 residents need total care, which means, the care is dependent on me, change their soiled diapers, linens and clothing to a clean one, get them out of bed in a wheelchair and bring them to the bathroom to assist in brushing their teeth, putting their dentures, combing their hair.

They all gather at the dining table for vital signs check and breakfast.

Two patients are hand fed, with puree diet and thickened liquids. After morning medications are given, I need to monitor all of them for any medication side effects.

Activities during the day like reading, either the newspaper, the bible or a magazine, watching TV and doing a range of motion exercises for 30 minutes each, playing with the dogs and feeding the fishes outside excites them all.

At 10 am, each resident will take an assisted shower. This will take 2 hours.

Lunch is served at 12 noon.

At 1 pm, 3 residents play Binggo, for 2 hours, serve snacks, then take their afternoon nap.

530pm is when dinner is served. Again, 2 are hand fed, and the rest need encouragement to eat their meal. Medications are given at 6pm, 8pm, and 10pm. Evening care such as brushing teeth, changing diapers, tucking them to bed is rendered as each one goes to bed at 10pm.

The above description is what I do daily, without incidents of going to the emergency room, doctor's appointments, picking up medications, grocery shopping, behavior management, and answering call bells at night for assistance.

All these services I get paid for \$2.10/hr per patient. \$50.50/day, \$1515.00/day/patient.

The amount I get paid for taking care of a medicaid patient is \$2.10/hr per patient. \$50.50/day, \$1515.00/month/patient.

I would like to kindly ask you to consider the merit of having a back pay. We have not received any increase since 2008. Caregivers are hard working people and doing as much needed to prosper in the caring of our elderly.

HB-1357

Submitted on: 2/5/2023 11:55:55 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Helen Sumoba Sapla	Big Island Adult Foster Home Organization	Support	Written Testimony Only

Comments:

Honorable Legislators

John Mizuno, Chair **Terez Amato, Vice Chair**
Della Au Belatti. **Gregor Ilagan**

Bertrand Kobayashi **Jenna Takenouchi**

Scott Nishimoto. **Diamond Garcia**


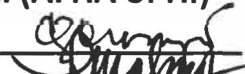

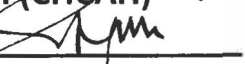
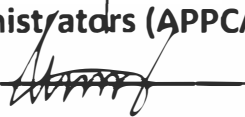
We as caregivers are full of hopes and expectations that this point in time after all the challenges and sacrifices over the years and going forward we will be blessed by passing this bill with flying colors. Our unconditional love to serve the elderly and people with disabilities is our passion and part of our culture.

Thank you all for your understanding for caregivers contributions to the community and to state of Hawaii. We strongly believe that we are entitled for back pay. You have the power and capacity to help us make it happen.

Thank you again.

TESTIMONY ON HB1357 IN OPPOSITION

The Presidents of:

1.  **Maribel B. Tan, President, Adult Foster Homecare Association of Hawaii (AFHA of HI)**
2.  **Carina Ocampo, President, United Caregivers of Hawaii (UCH)**
3.  **Lemmy Maluyo, President, Community Homecare Association of Hawaii (CHCAH)**
4.  **Elma Tierra, President, Alliance of Professional Primary Care Administrators (APPCA)**
5.  **Menchie Dawang, President, Providers Helping Hands of Hawaii, (PH3)**

We submit testimony as a coalition in OPPOSITION to HB1357. We are the Presidents from Five Organizations representing nearly 85% with about 1800 members of the community caregiver industry.

We oppose the measure because this bill appears to violate the law regarding back pay. Also, the proponents of this bill assert that community based caregivers have not received a pay increase in 14 years. We finds this assertion to be incorrect.

To pass a law to order fourteen (14) years of backpay seems unreasonable and may violate State or Federal law. This bill is seeking to pass into law back pay to community based caregivers going back to July 1, 2009 to a future date of June 30, 2023. How can you order back pay for a future date in time?

The supporters of the bill believe simply introducing a bill to force back pay since July 1, 2009 for community based caregivers can pass into law. However, unless the supporters can prove illegal payments to this industry, such a bill is moot. Furthermore, the question comes up "did the community based caregivers bring a cause of action against the State for failure to provide fair payment?" If the community caregivers failed to bring such an action, to simply force a bill to order back pay of 14 years seems unconscionable and against public policy.

Moreover, in reviewing the State and Federal laws relating to back pay, generally a two-year statute of limitations applies to the recovery of back pay. In the case of willful violations, a three year statute of limitations applies. Here, it appears the proponents of the bill did not review the laws covering pay back.

For the reasons provided we oppose HB1357, and ask that your committee defer this bill.

HB-1357

Submitted on: 2/6/2023 8:11:35 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
tyler green	Caring Hands Foster Home	Support	Written Testimony Only

Comments:

I,Tyler Green Green a Partner of Caring Hands Foster Home support Bill HB 1357

HB-1357

Submitted on: 2/3/2023 4:43:17 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
paul lacuesta	Individual	Support	Written Testimony Only

Comments:

HB-1357

Submitted on: 2/4/2023 4:22:46 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Mathew Yamamoto	Individual	Support	In Person

Comments:

Honorable Committee Chairs, Vice-Chairs, and Committee members,

Aloha! Thank you for hearing this bill to make retroactive back payment to licensed home providers to medicaid clients. These licensed home providers are very important to our community and deserve all the help you can give them.

The purpose of this bill is to make payments to licensed home operators, but the wording is a bit vague and might be misinterpreted to be a payment to the medicaid clients. I would suggest that the wording of page 1, line 4, be amended to: "... provide back payments **TO THE LICENSED HOME OPERATORS** in the amount of..."

Again later in the bill, page 2, line 1: "... provided that back payments **TO SUCH LICENSED HOME OPERATORS** for medicaid-eligible clients"

And also I would suggest a change at the end of the first paragraph on page 2 (line 11), that "care home" be deleted and replaced by "**LICENSED HOME OPERATOR.**" As care homes are only one of the licensed home operators to receive this intended back payment.

Finally, if it is found to be more appropriate title, I would suggest that "**RETROACTIVE payments**" instead of "back-pay" be used to describe and title this bill.

Mahalo for all you effort with regards to this and other bills to help licensed home operators!

Respectfully submitted,

Mathew Yamamoto, a registered voter.

99-794 Meaala Street, Aiea HI 96701

Rep. Della Au Belatti, Chair
House Committee on Health & Homelessness
Rep. John M. Mizuno, Chair
House Committee on Human Services
Tuesday, February 7, 2023, 10:00 am CR 329
In Support of HB1357 relating Medicaid Back Pay

Chair Della Au Belatti and members of the Health & Homelessness Committee,
Chair John M. Mizuno and members of the Human Services Committee,

My name is Esther Pascual. I have been a care home operator for over 50 years. I have been the President of the United Group of Home Operators (UGHO) for over 23 years. I am also the Second Vice President of the International Longshore & Warehouse Union (ILWU Local 1000 Home Operators).

I am in strong support of passing HB1357 relating to Medicaid Patients Back Pay. We care for the impoverished and the medicaid benefit recipients who are unable to care for themselves. We provide their housing, meals and snacks, daily needs, supervision and in some cases medical care. Home providers have been paid the same amount for the last fourteen (14) years prior to January of 2023. I submit that Home providers of the aforementioned facilities shall receive back-pay for having no increases for the aforementioned time. Licensed care givers shall be paid \$2,500 per client, for each year of the last fourteen years. Back-payments for clients/patients who were housed less than a year will be pro-rated. Payments are to be made in monthly installments over the course of 12 months to licensed care givers, or in a single lump sum at the request of the licensed care giver. Licensed care givers must provide historical records of the patients under their care to receive back pay.

I humbly ask for your support of this bill and I thank you for giving me the opportunity to testify to this important bill.

Esther B. Pascual
99-079 Kauhale Street #101
Aiea, HI 96701
(808) 452-4822
jesspascual49@charter.net

=====

A BILL FOR AN ACT

RELATING TO CARE HOMES.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2023-2024 to provide back payments in the amount of \$2,500 per medicaid-eligible client under the care of the following care homes for each year during the period between July 1, 2009, to June 30, 2023:

(1) Community care foster family homes issued a certificate of approval pursuant section 321-483, Hawaii Revised Statutes;

(2) Adult residential care homes type I licensed pursuant to section 321-15.6, Hawaii Revised Statutes;

(3) Expanded adult residential care homes licensed pursuant to section 321-15.62, Hawaii Revised Statutes; and

(4) Developmental disabilities domiciliary homes licensed pursuant to section 321-15.9, Hawaii Revised Statutes;

provided that back payments for medicaid-eligible clients who were housed less than a year shall be prorated; provided further that, to claim this back payment, applicable care home operators shall provide historical records of the medicaid-eligible clients under their care, at the request of the department of human services, along with any other information the department deems necessary to verify eligibility for back payments; provided further that back payments made pursuant to this Act shall be made in monthly installments over the course of twelve months or in a single lump sum, at the request of the applicable care home operator.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2023.

INTRODUCED BY: _____

Report Title:

CCFFH; ARCH Type-I; EARCH; DDDOM; Care Homes; Back Pay;
Medicaid; DHS; Appropriation

Description:

Appropriates funds for back payments for each medicaid-eligible client cared for by certain care homes over the last fourteen years.

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

HB-1357

Submitted on: 2/5/2023 6:27:50 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Victoria Llasus Baker	Individual	Support	Written Testimony Only

Comments:

I'm writing to you today in support of HB 1357 relating to care home and Medicaid home based and community based services whose been under paid for many years and received no pay increase for more than 14 years. I support this bill seeking fair compensation for those years and for the years to come. Thank you for supporting this bill.

HB-1357

Submitted on: 2/5/2023 10:01:27 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Benita Riingen	Individual	Support	Written Testimony Only

Comments:

I am supporting the house bill 1357 due to high cost of living in the care giving industry. Thank you for allowing me to submit my testimony

HB-1357

Submitted on: 2/5/2023 11:12:18 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Karen Irie	Individual	Support	Written Testimony Only

Comments:

As a citizen & retired state worker, I support bills that would fairly compensate physicians and licensed home operators/providers of Medicaid clients so they may thrive in communities of this state. Rapidly increasing living costs have put a strain on all, especially the most vulnerable who need available licensed homes as opposed to placement in high costing institutions that are overwhelmed. While the demand for care home services is increasing, its supply is decreasing. I support Bills 1341, 1356, 1357 & 1367 in order to avoid the negative repercussions of this crisis.

HB-1357

Submitted on: 2/6/2023 12:44:20 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruthie Agbayani	Individual	Support	Written Testimony Only

Comments:

From July 1, 2009 to present, many caregivers/providers have not been paid for services provided to Medicaid clients. Everything is computerized these days, including filing of claims. Despite closeness of accuracies, due to human errors, coding, or glitches, many payments from health maintenance organizations fall through the cracks. Caregivers/providers don't have time to be chasing after their reimbursements; they are busy providing quality health care for their Medicaid clients. In addition to appropriating funds for back payments, I would like to personally request that the DHS investigate all unpaid claims individually. With the high costs of living here in Hawaii before, during, and much worse in the aftermaths of the COVID19 pandemic, nothing is for free, most especially healthcare services. Caregivers/providers need to be paid for all services provided as far back as 14 years. Thank you.