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## **HOUSE COMMITTEE ON HEALTH**

### **TESTIMONY REGARDING HB 702 RELATING TO GENERAL EXCISE TAX**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: JANUARY 30, 2009**

**TIME: 8:30AM**

**ROOM: 329**

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This legislation provides a general excise tax exemption for managed care support contractors of the TRICARE program that is established under 10 United States Code chapter 55.

The Department of Taxation has no comments on this legislation other than citing that this was not factored into the Executive Budget or any of its fiscal priorities this session.

The Department is precluded from providing a specific estimate because of the limited taxpayer population, which the Department utilizes to arrive at its revenue estimates. The Department suggests that the Committee determine the revenue loss of any proposed tax relief by discussing the matter directly with taxpayers that will benefit from the measure.

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**MEMORANDUM**

**TO:** Representative Ryan Yamane  
Chair, House Committee on Health  
Hawaii State Capitol, Room 419  
Via e-mail: hltestimony@capitol.hawaii.gov

**FROM:** Gary Slovin/Chris Pablo

**DATE:** January 28, 2009

**RE:** **H.B. 702 relating to General Excise Taxation**  
**Hearing on Friday, January 30, 2009 at 8:30 a.m., Room 329**

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Dear Chair Yamane and Members of the Committee on Health:

I am Gary Slovin, testifying on behalf of TriWest Healthcare Alliance Inc. ("TriWest"), a Delaware corporation headquartered in Phoenix, Arizona. **TriWest supports H.B. 702.**

In Hawaii, TriWest is the only third-party administrator of a cost-effective, high quality network of health care providers for the nation's active and retired uniformed service members and their families, under a federal government program known as "TRICARE" (formerly known as "CHAMPUS").

**What is TRICARE?** The Federal Government has established a managed health care program for members of the uniformed services and certain dependents. It was created in the early 1990s to supplement the existing military health care delivery system and provide health care services for active duty military personnel, military retirees, and their families (collectively, the "Beneficiaries") by utilizing civilian health care providers.

In Hawaii, the Beneficiaries have access to military health care facilities, such as the Tripler Army Medical Center, and to health care clinics on military bases throughout the state. In addition, the Beneficiaries have access to medical services through the network of community health care providers that have been contracted by TriWest.

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TRICARE receives its funding as part of the annual defense appropriations budget. It is administered by the TRICARE Management Activity (“TMA”), which is part of the United States Department of Defense (“DoD”), Office of the Assistant Secretary of Defense (Health Affairs).

**What is TriWest?** TriWest is dedicated to providing the best possible service to military families. It manages the TRICARE program for over 2.7 million Beneficiaries – this is TriWest’s only line of business. In Hawaii, TriWest employs approximately sixty employees.

In the health care industry, TriWest’s business would be characterized as a “**third-party administrator.**” TriWest, known as a “**managed care support contractor**” in the applicable Federal laws and regulations, is a disbursing agent for the Federal Government in the western states, including Hawaii. Its job is to receive claims and invoices from health care providers, and then pay those claims according to the amounts and guidelines set by the Government (“**reimbursement**”). The Government then reimburses TriWest for the amounts paid, and also pays TriWest an **administrative fee** for its services. This is best illustrated in the attached PowerPoint slide.

TriWest pays Hawaii General Excise Tax on the amounts it receives from TRICARE as compensation for its services as *managed care contractor*, but it does not pay, and has never paid, tax on the reimbursement amounts. TriWest has been working with the Department of Taxation to seek confirmation that it is not subject to Hawaii General Excise Tax on such amounts. Department representatives generally have been sympathetic to TriWest’s position and understanding of its desire for certainty as to its tax liability. In the process of reviewing TriWest’s request for a definitive ruling letter from the Department, however, some technical concern was expressed as to the clarity of the legal basis for exempting such reimbursement amounts from Hawaii General Excise Tax. TriWest, therefore, is asking the Legislature to clarify that such reimbursement amounts are not taxable to TriWest.

**What is the purpose of H.B. 702?** The purpose of H.B. 702 is to make clear that the amounts received by TriWest from TRICARE as “reimbursements” are excluded from the imposition of the General Excise Tax. This clarification will be made by amending Section 237-24 (Amounts not taxable) to add a new subsection (17):

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“(17) Amounts received by a managed care support contractor of the TRICARE program that is established under 10 United States Code chapter 55, as amended, for the actual cost or advancement to third party health care providers pursuant to a contract with the United States.”

We thank you for the opportunity to testify in support of **H.B. 702**.



US Department of Defense  
Military Health System



**REIMBURSEMENT**

*For Medical Services  
Provided to  
Hawaii-based TRICARE beneficiaries  
by Hawaii medical providers/hospitals*

**ADMINISTRATIVE FEES**

*\$8.4 million/FY 2008  
\$376,000 in GE Taxes/FY 2008*

*\$30 million/year*

**H.B. 702**  
**Proposes to**  
**Amend §237-24 to**  
**clarify that the**  
**reimbursements are**  
**not taxable amounts**



*Managed care support contractor*

aka "TPA"

Third-Party Administrator

- Claims Processing
- Enrollment
- Utilization and Disease Mgmt
- Network Building

**Network Health Care Providers**

*Medical services & supplies*



**Soldiers, Sailors, Airmen, Dependents, Retirees**  
**Beneficiaries**

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

January 29, 2009

The Honorable Ryan Yamane, Chair  
The Honorable Scott Nishimoto, Vice Chair  
House Committee on Health

**Re: HB 702 – Relating to General Excise Taxation**

Dear Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

As the TriCare plan in the state of Hawaii, the Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of HB 702 which would exempt from the general excise tax amounts received by managed care support contractors as reimbursements of costs or advances made pursuant to a contract for the administration of the federal TriCare program.

This measure would clarify that any amounts received by a managed care support contractor for reimbursements of costs made by the contractor, made pursuant to the contract with the federal government for the administration of the TriCare program, are exempt from the Hawaii General Excise Tax (GET).

HB 702 would bring Hawaii in line with every other state in the U.S. (except Texas). This exemption will truly support the continued availability and strength of the TriCare program and ensure that HMSA is able to provide coverage to the approximately 150,000 current and former military personnel and their family members who reside in Hawaii.

Sincerely,

Jennifer Diesman  
Assistant Vice President, Government Relations

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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**SUBJECT:** GENERAL EXCISE, Exempt reimbursements for TRICARE program

**BILL NUMBER:** SB 427; HB 702 (Identical)

**INTRODUCED BY:** SB by Ige, Baker, Chun Oakland, Green, Ihara and 4 Democrats; HB by Yamane, M. Lee, Nishimoto, Tsuji, Yamashita and 4 Democrats

**BRIEF SUMMARY:** Amends HRS section 237-24.75 to clarify that amounts received by a managed care support coordinator of the TRICARE program established under the 10 United States Code chapter 55 for reimbursement of costs or advances made to health care providers pursuant to a contract with the United States shall be exempt from general excise taxation.

**EFFECTIVE DATE:** July 1, 2009

**STAFF COMMENTS:** The TRICARE program was established by the U.S. Department of Defense (DOD) as the managed care component of the Military Health Care system to augment the health care services provided to DOD personnel at military treatment facilities. TRICARE contracts with third-party administrators (managed care support contractors) to establish and maintain networks of TRICARE-authorized civilian health care providers. These managed care support contractors make advances to health care providers for the services they provide to TRICARE beneficiaries and are reimbursed by the DOD for the amounts of such advances.

This measure clarifies that amounts received by the managed care support coordinators as reimbursements from the DOD for advances they made on behalf of the DOD for TRICARE program purposes are not taxable under Hawaii's general excise tax law.

While an understanding of HRS section 237-20 which delineates the cost reimbursement provision under the general excise tax law appears to dictate that such reimbursements are not taxable unless the person making the advance receives additional monetary consideration for the services provided, the adoption of this measure may be unnecessary.

On the other hand, if the third party administrator receives a fee for handling these reimbursements, then it runs into the ban that HRS 237-20 imposes where the fee taints the entire amount received from the DOD. Hawaii law has already set precedent, providing that amounts received as reimbursements for wages, salaries and benefits of hotel workers paid by a hotel operator on behalf of the hotel owner are exempt as are reimbursements made on behalf of the city for the operations of the city's bus system by a third-party operator even though additional consideration is received in both cases. It should be noted that the fee paid to the third party administrator would continue to be subject to the general excise tax as the fee is gross income to the third party administrator.

Digested 1/28/09