

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

LATE TESTIMONY

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 30, 2009

MEMORANDUM

TO: Honorable Robert N. Herkes, Chair
House Committee on Consumer Protection and Commerce

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 940, S.D. 1, H.D. 1,-- RELATING TO INSURANCE**

Hearing: Monday, March 30, 2009, 2:15 p.m.
Conference Room 325, State Capitol

PURPOSE: The purpose of this bill is to require direct payment for the provision of pre-hospital ambulance treatment and transport services. Part II requires insurance entities contracting with the State to provide Medicaid coverage to enter into written contracts with a minimum of 50 percent of hospitals and providers in their coverage area.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes Part II of this bill that would result in State interference in private sector negotiations and decrease healthy competition resulting in decreased quality of care for clients and decreased value to Hawaii tax payers.

Part II of this bill would require that any insurance entity contracted by the State to provide Medicaid services contract with 50% of hospitals and providers of healthcare services within a certain timeframe—in other words half of all providers. This is quite problematic. Not all

contracts with insurance entities include services from all provider types (such as our behavioral health plan not providing inpatient or outpatient general medical services).

This short timeframe also gives providers tremendous leverage in contracting negotiations. In our most recent experience with QExA, hospitals were not willing to contract until 11 months after the health plans were awarded the contract from the State. Had this bill been in effect, the QExA program would not have been able to be implemented and have further cause our most vulnerable low-income population to continue to fall through the cracks of a fragmented fee-for-service program.

Those health plans required to provide hospital services will need to contract with hospitals before the start date as required by CMS and DHS. Network adequacy is determined by CMS, not by the State. There are probably a number of sub-specialties of which 50% of the provides in the State do not accept Medicaid. This bill does not therefore have any impact on the programmatic contracting requirements or have any benefit to the patients served by these programs. Instead this bill is governmental interference into private sector negotiations.

This bill does is disadvantageous to the establishment of any new health plans, including existing health care organizations that are interested in offering a plan in a different program. The result is decreased competition. Competition has been demonstrated to increase quality, which benefits clients, and increase value, which benefits tax payers. This bill places special interests above those of vulnerable clients and Hawaii tax payers.

The term insurance entity is extremely vague and if constituting a pre-paid arrangement with risk-sharing, then any provider type paid capitation, such as case management agencies or other waiver service providers, would be considered an insurance entity.

DHS defers to the Department of Health on the other parts of this bill.

Thank you for the opportunity to comment on this bill.



LATE TESTIMONY

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Consumer Protection & Commerce

SB 940, SD 1, HD1, RELATING TO INSURANCE

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

Monday, March 30, 2009

1 **Department's Position:** The Department of Health strongly supports Part I of this Administration bill
2 but respectfully proposes amended language in the form of a House Draft 2. We defer to the
3 Department of Human Services on the newly added Part II of this measure.

4 **Fiscal Implications:** Should result in an increase in revenue to the general fund.

5 **Purpose and Justification:** The State is responsible for providing 911 ambulance services statewide
6 through contracts for services in each of the counties. It also bills and collects for ambulance services
7 provided to patients statewide with revenues deposited into the general fund. As these emergency
8 services are funded by Hawaii's taxpayers, the Department of Health believes there should be a level
9 playing field for all citizens regarding commercial third party reimbursement for these critical services.
10 It is also generally accepted practice even among managed care insurance plans that when there is a sole
11 source provider of a critical service, payment for these services is made directly to the provider, whether
12 or not there is a contract in place.

13 While most health insurers in Hawaii abide by these practices, not all do. Direct payment to the
14 State of the insurance plan benefit for ambulance services results in improved collections at lower costs,
15 and simplifies matters particularly for elderly consumers who are often confused when they receive the
16 insurance check in the mail, cash it and use it for other purposes. Pursuing payment in these situations

1 causes unnecessary delays, costs of collection for the State, and often frustration for our citizens.

2 This measure amends the state insurance statutes to require all accident and health or sickness
3 insurers that offer coverage for ambulance service to provide direct payment to the State for pre-hospital
4 ambulance treatment and transport services. It also reaffirms that the requirement for direct pay is for
5 ambulance services billed by the State. A question was raised by the Senate Health Committee
6 regarding payment for back-up 911 ambulance services on Maui. The Department has determined we
7 can address the solution in contract language rather than in statute.

8 We respectfully request the Committee consider the proposed HD 2 as the amended language
9 offered in SD 1 and HD 1 for Part I of this measure is too vague to set in statute.

10 Thank you for the opportunity to testify on this important measure.

Report Title:

Insurance; Direct Payment; Healthcare

Description:

Requires direct payment to the State for provision of pre-hospital ambulance treatment and transport services.

S.B. NO. 940,
SD1, HD1
PROPOSED
HD2

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

PART I

1
2 SECTION 1. Currently, some insurers who do not have a
3 contract with the State for provision of pre-hospital ambulance
4 treatment and transport services send claim remittances or
5 direct payments to patients. This practice burdens the patient
6 with billing processing, burdens the State with the cost of
7 collection services to collect payment from the patient, and
8 creates an unnecessary situation of possible bad debt for the
9 patient.

10 The primary purpose of this Act is to require insurers,
11 mutual benefit societies, and health maintenance organizations
12 to make direct payments to the State that funds the provision of
13 pre-hospital ambulance treatment and transport services.

14 SECTION 2. Chapter 431, Hawaii Revised Statutes, is

SB940, SD1, HD1
PROPOSED HD2

S.B. NO. 940, SD1, HD1 PROPOSED HD2

1 amended by adding to article 10A a new section to be
2 appropriately designated and to read as follows:

3 "§431:10A□ Direct payment for pre-hospital ambulance
4 treatment and transport services. (a) For the purposes of this
5 section "pre-hospital ambulance treatment and transport
6 services" means the provision of healthcare to and the
7 transference of a person via ambulance as a result of requests
8 to the State's 911 system.

9 (b) Any accident and health or sickness insurer that
10 offers coverage for pre-hospital ambulance treatment and
11 transport services shall provide for direct payment to the State
12 for the provision of pre-hospital ambulance treatment and
13 transport services. This subsection (b) shall not apply to any
14 transaction between the State for provision of pre-hospital
15 ambulance treatment and transport services and an insurer if the
16 parties have entered into a contract providing for direct
17 payment.

18 (c) For purposes of this section, "Direct payment" means:

19 (1) The State shall file a claim on behalf of the enrollee

S.B. NO. 940, SD1, HD1 PROPOSED HD2

1 for the provision of pre-hospital ambulance treatment and
2 transport services with the insurer;

3 (2) The insurer shall pay the State for provision of pre-
4 hospital ambulance treatment and transport services within sixty
5 days of receipt of a claim filed by the provider; and

6 (3) The State shall not make a demand for payment from the
7 enrollee for the provision of pre-hospital ambulance treatment
8 and transport until payment has been received from the insurer.
9 Thereafter, the State may make a demand for payment from the
10 enrollee for any unpaid portion of the services provided to the
11 enrollee."

12 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
13 amended by adding to article 1 a new section to be appropriately
14 designated and to read as follows:

15 **"§432:1□ Direct payment for pre-hospital ambulance**
16 **treatment and transport services. (a) For purposes of this**
17 **section "pre-hospital ambulance treatment and transport**
18 **services" means the provision of healthcare to and the**
19 **transference of a person via ambulance as a result of requests**

S.B. NO. 940, SD1, HD1 PROPOSED HD2

1 to the State's 911 system.

2 (b) A mutual benefit society that offers coverage for pre-
3 hospital ambulance treatment and transport services shall
4 provide for the direct payment to the State for the provision of
5 pre-hospital ambulance treatment and transport services. This
6 subsection (b) shall not apply to any transaction between the
7 State for provision of pre-hospital ambulance treatment and
8 transport services and a mutual benefit society if the parties
9 have entered into a contract providing for direct payment.

10 (c) For purposes of this section, "Direct payment" means:

11 (1) The State shall file a claim on behalf of the enrollee
12 for the provision of pre-hospital ambulance treatment and
13 transport services with the mutual benefit society;

14 (2) The mutual benefit society shall pay the State for the
15 provision of pre-hospital ambulance treatment and transport
16 services within sixty days of receipt of a claim filed by the
17 provider; and

18 (3) The State shall not demand payment from the enrollee
19 for the provision of pre-hospital ambulance treatment and

S.B. NO. 940, SD1, HD1 PROPOSED HD2

1 transport services until payment has been received from the
2 mutual benefit society. Thereafter, the State may make a demand
3 for payment from the enrollee for any unpaid portion of the
4 provider's fee."

5 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§432D Direct payment for pre-hospital ambulance
9 treatment and transport services. (a) For purposes of this
10 section "pre-hospital ambulance treatment and transport
11 services" means the provision of healthcare to and the
12 transference of a person via ambulance as a result of requests
13 to the State's 911 system.

14 (b) A health maintenance organization that offers coverage
15 for pre-hospital ambulance treatment and transport services
16 shall provide for the direct payment to the State for the
17 provision of pre-hospital ambulance treatment and transport
18 services. This subsection (b) shall not apply to any
19 transaction between the State for provision of pre-hospital

S.B. NO. 940, SD1, HD1 PROPOSED HD2

1 ambulance treatment and transport services and a health
2 maintenance organization if the parties have entered into a
3 contract providing for direct payment.

4 (c) For purposes of this section, "Direct payment" means:

5 (1) The State shall file a claim on behalf of the enrollee
6 for the provision of pre-hospital ambulance treatment and
7 transport services with the health maintenance organization;

8 (2) The health maintenance organization shall pay the
9 State for the provision of pre-hospital ambulance treatment and
10 transport services within sixty days of receipt of a claim filed
11 by the provider; and

12 (3) The State shall not demand payment from the enrollee
13 for the provision of pre-hospital ambulance treatment and
14 transport provider until payment has been received from the
15 health maintenance organization. Thereafter, the State may make
16 a demand for payment from the enrollee for any unpaid portion of
17 the provider's fee."

18 PART II

19 SECTION 5. Chapter 346, Hawaii Revised Statutes, is

S.B. NO. 940, SD1, HD1 PROPOSED HD2

1 amended by adding a new section to be appropriately designated
2 and to read as follows:

3 "§346- Requirements for participating insurance
4 entity. Within ninety days any insurance entity contracted by
5 the State to provide medicaid coverage shall enter into written
6 contracts with a minimum of fifty per cent of the hospitals and
7 providers of healthcare services in the insurance entity's
8 coverage areas. For purposes of this section, a letter of
9 intent shall not be deemed a written contract."

10 PART III

11 SECTION 6. If any provision of this Act, or the application
12 thereof to any person or circumstance is held invalid, the
13 invalidity does not affect other provisions or applications of
14 the Act which can be given effect without the invalid provision
15 or application, and to this end the provisions of this Act are
16 severable.

17 SECTION 7. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2020.

19



LATE TESTIMONY

March 30, 2009

Hon. Robert N. Herkes, Chair
Hon. Glenn Wakai, Vice Chair
House Committee on Consumer Protection and Commerce

Re: SB 940 S.D.1 H.D.1 – Relating to Insurance

Dear Chair Herkes, Vice Chair Waikai and Members of the Committee:

My name is Rick Jackson and I am Chief Operating Officer of MDX Hawai'i, a third party administrator of Hawai'i health benefit plans since 1985. Our health care clients include The Queen's Health Systems, Longs Drug, Aetna, Cigna, Deseret Mutual, United Healthcare and Wellpoint.

MDX Hawai'i appreciates the opportunity to testify in support of the original intent of SB 940 which would direct payments for ambulance services to the State. Every health plan in Hawai'i, including all MDX Hawai'i clients, have either contracted with EMS to do this or are making such payments directly as a matter of routine operations, with the exception of HMSA.

New language was recently added to this bill by House Health which would mandate certain new contracting requirements for Medicaid health plans. We oppose these new requirements in Part II of SB 940. These new requirements are not consistent with DHS RFPs for Medicaid health plans issued during the last fifteen (15) years and, if implemented, would serve only to limit competition for Medicaid health plans to the current incumbents. As one example, if the requirements of this new provision had been in force during the recent QExA RFP process, winning plans would have been required to contract with 50% of Hawai'i providers within 90 days of contract award in February 2008; in other words, May 2008, fully eight (8) months before the actual start up of QExA operations. This kind of protectionist legislation should be avoided for reasons that are or should be obvious to all Hawai'i taxpayers, because it limits competition which in turn raises the cost of services.

Thank you for the opportunity to offer comments today.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Jackson". The signature is fluid and cursive.

Rick Jackson
Chief Operating Officer