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

February 17, 2010

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 2208 H.D. 1– RELATING TO INSURANCE**

Hearing: Wednesday, February 17, 2010; 2:00 pm
Conference Room 325, State Capitol

PURPOSE: The purpose of this bill is to require health insurers to promptly pay claims for services to Medicaid recipients, by repealing the exemption for Medicaid claims from the clean claims law and requires the Department of Human Services to pay health plans with interest when payment is delayed, except under certain circumstances beyond the department's control.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes H.B. 2008, H.D. 1. The addition of the requirement that DHS shall pay the health plans interest on any unpaid amounts will place an economic strain on the State budget, both now and in the future. We estimate that this will increase next year's shortfall by $7.5 million due to interest payments from a three-month delay in health plan capitation payments.

AN EQUAL OPPORTUNITY AGENCY

As the Med-QUEST Division faces a biennium budget shortfall of nearly $150 million at the end of State Fiscal Year 2011, not including the $7.5 million described above, difficult decisions will need to be made to close this budget gap. Adding a payment of 15% per year to health plans, when payments are already overdue, further exacerbates this problem.

As an entitlement, the Medicaid program is probably the most difficult budget in the State to predict for a biennium. Predictions can be made about growth and actuarially sound rate increases, but it is often factors beyond the State's ability to control, including the percentage of funds that the Federal government will contribute, that ultimately impact this budget.

If this bill passes with this amendment, it will have long-lasting impacts that exceed and compound this current budget crisis.

DHS believes that health care providers contracted with health plans operating under DHS contracts should receive prompt payment for their services. For that reason, DHS included prompt payment requirements in its contracts with the health plans. The health plans contracted by DHS are required to pay 90% of clean claims in thirty days and 99% in ninety days. This is the same prompt payment requirement that the Federal government imposed on Medicaid fee-for-service under the American Recovery and Reinvestment Act. Health plans that do not meet these requirements are subject to sanctions.

No health plan has failed to meet these requirements. In other words, all our health plans have been complying with our contractual prompt provider payment requirement, even last year when DHS had to defer payments to health plans for the two months of May and June.

AN EQUAL OPPORTUNITY AGENCY

While we understand the intent of this bill and support providers who care for our clients, this bill could have an unintended bad consequence -- instead of health plans working to resolve claims, they might deny them. Increasing the denial rate merely increases the burden on providers.

We also recognize that a health plan new to a program, such as one of the health plans being awarded a QUEST Expanded Access contract, would be potentially contracting with a new array of provider types. Testing claims processing systems is difficult until providers actually begin submitting claims. Therefore, if this bill is passed, it should be amended to include a period of six months after beginning a new contract in a program during which a health plan should remain exempt from the State prompt pay requirement.

DHS understands the implications to a contracted health plan if capitated monthly payments by DHS to the health plan are delayed. Health plans may need to access their reserve. In order to be licensed, a health plan is required to have funds in reserve in the unexpected event of a period in which expenditures exceed revenue so that it can continue to pay providers and medical care can continue without interruption to its members. The DHS contracted health plans are facing such a situation.

While a health plan might decide not to utilize its reserve and stop payments to providers in its network, this could have a negative impact on Medicaid recipients. It is the responsibility of the health plans to ensure timely access to quality health care for Medicaid recipients. And it is the responsibility of DHS to ensure that the health plans meet this responsibility.

DHS is currently working on options to <u>not</u> have to defer health plan payments starting April.

Thank you for the opportunity to provide testimony on this bill.

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Robert Herkes, Chair

Conference Room 325
Feb. 17, 2010 at 2:00 p.m.

Supporting HB 2208 HD 1 with an amendment.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Thank you for this opportunity to testify in support of HB 2208 HD 1, which requires health plans contracted by the State for Hawaii's Medicaid program to pay clean claims submitted by health care providers in a timely manner. The bill also requires the State to pay Medicaid health plans in a timely manner.

The Department of Human Services (DHS) operates in partnership with Hawaii's health care delivery system through the management of the Medicaid program. As a partner, DHS provides essential financing to health care providers for care delivered to Medicaid participants.

Health care providers, particularly those that deliver care to QuestExA enrollees, have experienced increases in delayed payments from health care plans contracted by the State. We have identified a combination of problems in the revenue cycle that contribute to this: (1) Delays or interruptions in payments by DHS plans; and (2) Operational challenges that the plans continue to experience after a year of operation.

The Healthcare Association is conducting a survey of its provider members to determine the dollar amount of claims submitted by providers that have not been paid by the health plans contracted under QuestExA and Quest. The survey has not yet been completed, but based on responses of about half of our membership, Hawaii's health care providers have experienced claims totaling tens of millions of dollars that have not yet been paid. These unpaid claims reduce providers' working capital, limiting their capacity to pay employees and purchase equipment and supplies, and may result in delayed access to care.

The "clean claims" law in Section 431:13-108, Hawaii Revised Statutes, requires health plans to pay providers on a timely basis when uncontested claims are submitted. Specifically, the law requires payments to be made within thirty days for clean claims submitted in writing, and within fifteen days for clean claims submitted electronically.

However, the law contains an exemption for Medicaid. As a result, health plans contracted by the State under Medicaid, including QuestExA, may delay payments without penalty. The purpose of this bill is to repeal the exemption for health plans contracted by the State under Medicaid from the clean claims law. This bill also requires the State to pay Medicaid health plans in a timely manner. We believe that this is particularly relevant, as the business model utilized by the State now focuses largely on a managed care approach through which the State contracts for services. We look forward to working with all stakeholders to ensure that this approach works for all.

The Healthcare Association has discussed this bill with QuestEx health plans, which are concerned that they will not be able to comply with the clean claims law since some claims are still being processed as paper claims. When these claims are incorporated in the computerized claims system, processing time will be reduced so that they will be able to comply. The Healthcare Association suggests an amendment to the bill to change the effective date to July 1, 2011.

With the suggested amendment, the Healthcare Association supports HB 2208 HD 1.

HAWAII MEDICAL ASSOCIATION
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Wednesday, February 17, 2010, 2:00 pm, Conference Room 325

To: COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

From: Hawaii Medical Association
Gary A. Okamoto, MD, Legislative Co-Chair
Linda Rasmussen, MD, Legislative Co-Chair
April Donahue, Executive Director
Lauren Zirbel, Government Affairs
Dick Botti, Government Affairs

Re: <u>HB2208 RELATING TO INSURANCE</u>

In Support

Chairs & Committee Members:

HMA supports HB2208, which repeals the exemption for Medicaid claims from the Clean Claims law.

Physicians are increasingly reluctant to participate in Medicaid. Unlike hospitals, which may have large cash reserves, private practice physicians cannot afford continual losses from patients on Medicaid. These losses stem from delayed payment, lagging cash flow, large discounted rates, time-consuming prior authorizations, and a fee structure that does not come close to meeting operating costs. The net effect, intended or not by Medicaid, is a strong disincentive for physicians to participate in the care of underserved patients.

HMA urges the Committee on Consumer Protection and Commerce to pass HB2208. The bill helps to improve the timeliness and promptness of Medicaid payment for professional services -- an important factor in supporting physicians who participate in the care of patients on Medicaid.

Thank you for the opportunity to testify.

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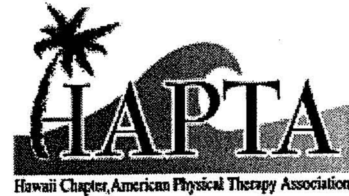

Testimony by: Kevin Lockette, PT
HB 2208, HD1 Relating to Insurance
Hse CPC, Weds. February 17, 2010
Room 325, 2:00 pm Position: Support

Chair Herkes and Members of the Hse CPC Committee:

I am Kevin Lockette, P.T., Reimbursement Committee Chair and member of the Hawaii Chapter – American Physical Therapy Association (HAPTA), and small business owner of private practice clinics. HAPTA represents 250-300 physical therapists and physical therapist assistants employed in hospitals, nursing homes, the Armed Forces, the Department of Education and Department of Health (DOH) systems, and private clinics throughout our community. Physical therapists work with everyone, from infants to the elderly, to restore and improve function and quality of life. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum function from neuromusculoskeletal injuries and impairments.

We support this measure because the repeal of the State's exemption from the clean claims law for health plans contracted under Medicaid will help alleviate delayed reimbursement to Medicaid providers. We understand that the State's current economic situation may also delay prompt payment to providers. However, the State's policy and process for claims payment should not remain a barrier.

It is common knowledge that more and more physicians and ancillary care providers are choosing to opt out of Medicaid plans due to poor reimbursement and the laborious process to obtain authorization and to collect payment. This can only diminish access to medical care for the indigent population in Hawaii.

Your consideration in support of HB 2208hd1 is appreciated. I can be reached at 262-1118 or 593-2610 if you have any questions. Thank you for the opportunity to testify.

1360 S. Beretania Street, #301 * Honolulu, HI 96814-1541 * www.hapta.org

To: COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

From: Vince Yamashiroya, MD

Re: HB2208 RELATING TO INSURANCE

In Strong Support

Chairs and Committee Members:

I strongly support HB2208 Relating to Insurance

Physicians in private practice see the majority of Medicaid patients and are dependent on prompt payments to survive as a business. With a delay in payments, more physicians may opt not to see or limit the Medicaid patients they will accept in their practices. The bill helps to improve the timeliness and promptness of Medicaid payment for professional services -- an important factor in supporting physicians who participate in the care of patients on Medicaid.

Thank you for the opportunity to testify.

Vince Yamashiroya, M.D., FAAP
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