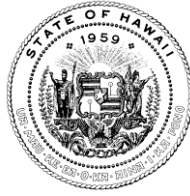


HB1672 HD2

Measure Title:	RELATING TO PRESCRIPTION DRUG BENEFITS.
Report Title:	Prescription Drugs Benefits; Non-network Pharmacies
Description:	Authorizes a beneficiary of a prescription drug benefit plan to obtain a prescription without penalty from a non-network retail community pharmacy located within fourteen miles of the beneficiary's residence, if the nearest network retail community pharmacy is located more than fourteen miles away. (HB1672 HD2)
Companion:	SB2376
Package:	None
Current Referral:	CPH
Introducer(s):	BELATTI, CREAGAN, DECOITE, EVANS, ING, KAWAKAMI, MCKELVEY, MORIKAWA, NAKASHIMA, SAN BUENAVENTURA, WOODSON, Souki



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Tuesday, March 29, 2016
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1672, H.D. 2 – RELATING TO PRESCRIPTION
DRUG BENEFITS.**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:**

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department submits the following comments.

The purpose of this bill is to allow prescription drug benefit plan beneficiaries to obtain a prescription without penalty from a non-network retail community pharmacy located within 14 miles from a beneficiary’s residence when the nearest network retail community pharmacy is located over 14 miles away.

This bill may impact the cost of health plans due to the mandatory participation of non-network pharmacies that have not negotiated reimbursement rates and agreements with health insurers. The non-participating pharmacy reimbursement rate is uncertain. It is unclear whether it is a rate set forth in a health plan for non-participating pharmacies or any price the non-participating pharmacy charges. Ultimately, this may result in increasing premiums for plan beneficiaries, as well as decreasing the payments

to the non-network pharmacies by the plan if reimbursement is made at non-participating pharmacy rates. The reimbursement process for non-participating providers as set forth in a plan may also be impacted.

We thank this Committee for the opportunity to present testimony on this matter.



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

P.O. BOX 2121
HONOLULU, HAWAII 96805-2121
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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 COMMERCE, CONSUMER PROTECTION AND
HEALTH
ON
HOUSE BILL NO. 1672 H.D.2

March 29, 2016, 9:00 a.m.

RELATING TO PRESCRIPTION DRUG BENEFITS

Chair Baker, Vice Chair Kidani, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees opposes this bill. The EUTF's pharmacy benefit manager, CVS Caremark, has identified 333 (or 0.35%) active employee and non-Medicare retiree subscribers and dependents in the prescription drug plans that do not have a network pharmacy within 14 miles of their residence. The two areas impacted are Honokaa (190 members) and Paauilo (143) on the Big Island.

The bill does not describe how the affected non-network pharmacies will be reimbursed by the plan or pharmacy benefit manager. Currently, the non-network pharmacy charges the member who pays the full amount. The member then submits a claim for the prescription to CVS Caremark who reimburses the member at the same rate as the network pharmacies less a higher copayment and coinsurance than a

member would have paid at an in-network pharmacy. It is unclear how the non-network pharmacy will: 1) know whether there's a network pharmacy within 14 miles of the member's residence and; 2) be reimbursed by the pharmacy benefit manager, both the mechanism and the reimbursement rate since there is no agreement between the two parties.

This bill may have a significant cost impact to the EUTF members and the State and counties since the incentive for pharmacies to join the CVS network, that reduces costs to the EUTF, will be diminished as the copayment incentives that drive use of network pharmacies are eliminated. In addition, because the potential exists for additional costs related to retirees, if that were to occur an additional impact would be an increase to the State and counties unfunded OPEB liability.

Additionally, the EUTF Board of Trustees recently approved implementation of a sub-network within the CVS Caremark network ("Retail 90 network") for 90 day prescriptions for July 1, 2016 that is projected to save the EUTF plan \$5.8 million annually. The Retail 90 network will also be negatively impacted by this bill.

Thank you for the opportunity to testify.

March 29, 2016

The Honorable Rosalyn H. Baker, Chair
The Honorable Michelle N. Kidani, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Re: HB 1672, HD2 - Relating to Prescription Drug Benefits

Dear Chair Baker, Vice Chair Kidani, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1672, HD2, which would authorize plan members to obtain a prescription from a non-network pharmacy when a network pharmacy is not located within 14 miles of the member's residence. The benefit and claim are to be treated as if the pharmacy is in the network. While we appreciate the intent of this measure, HMSA respectfully opposes this Bill as drafted, and we offer comments.

Network-based managed care plans, whether for pharmacy, medical, or dental services, are essential for an efficient health care system. We need health professionals, including pharmacists, who appreciate the value of, and their role in, our patient-centered medical home model of health care delivery.

Pharmacies willing to join us in this mission may already do so. In fact, pursuant to Act 226, SLH 2013, the Legislature actually requires health plans to contract with any community pharmacy willing to accept our contract. §431R-2, HRS, provides as follows:

[§431R-2] Retail community pharmacies; retail pharmacy network; contractual agreements. (a) An otherwise qualified retail community pharmacy registered to do business in this State that requests to enter into a contractual retail pharmacy network agreement accepting the standard terms, conditions, formularies, or requirements relating to dispensing fees, payments, reimbursement amounts, or other pharmacy services shall be considered part of a pharmacy benefit manager's retail pharmacy network for purposes of a beneficiary's right to choose where to purchase covered prescription drugs under section 431R -3.

(b) It shall be a violation of this section for a prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager to refuse to accept an otherwise qualified retail community pharmacy as part of a pharmacy benefit manager's retail pharmacy network.

HMSA appreciates the desire to ensure access to pharmacy coverage, particularly in our neighbor island rural communities. The overwhelming majority of our members currently enjoy reasonable access to a pharmacy. For example, on Hawaii Island, 95% of our Medicaid members, 96.3% of our Medicare members, 94.8% of our commercial members, and 93.8% of our ACA Exchange members have access to a pharmacy within a 10-mile radius of their homes.



An Independent Licensee of the Blue Cross and Blue Shield Association

As drafted, this Bill may impede quality management of our provider network as more scrutiny may be necessary. This would result in additional administrative cost to the healthcare system.

Thank you for the opportunity to testify on HB 1672, HD2. Your consideration of our concerns is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman
Vice President, Government Relations

March 25, 2016

To: Senator Rosalyn Baker, Chair
Senator Michelle N. Kidani, Vice Chair
Committee on Commerce, Consumer Protection and Health

Fr: Cynthia Laubacher, Senior Director, State Affairs
Express Scripts Holding Company

Re: House Bill 1672 HD2 – Pharmacy Networks
Hearing Date: Tuesday March 29, 2016 9:00am

Express Scripts appreciates the opportunity to submit testimony regarding House Bill 1672, which seeks to allow patients to use non-network pharmacies if an in-network pharmacy is not fourteen miles. Express Scripts is one of the nation's leading pharmacy benefit managers, serving tens of millions of Americans.

First, HB 1672 is unnecessary. House Bill 65/Act 226 of 2013, allows all retail pharmacies in the state the opportunity to contract with us.

Second, HB 1672 creates numerous problems for patients and existing network pharmacies. First and foremost, it imperils patient safety. PBMs monitor prescription safety across all of our network pharmacies, alerting pharmacists to potential drug interactions, even if a consumer uses multiple pharmacies. Pharmacies outside our network cannot access the patient's history to determine the potential for a drug interaction. Consider the case of a cancer patient being treated by a primary care physician, an oncologist, a radiologist and a surgeon, each of whom is prescribing medication. If a patient uses an out-of-network pharmacy, that pharmacy will not have access to any information as to the other medications that patient may be taking, therefore, unable to perform basic required drug utilization review to ensure the patient will not suffer from a drug interaction.

Nor can that pharmacy bill us for their services, or access patient information regarding their formulary or cost share. Patients will be forced to pay the full price of the medication. PBMs are also able to monitor fraud, waste and abuse with pharmacies in their networks, such as whether a patient is attempting to fill multiple prescriptions for controlled substances at different pharmacies. We cannot do any of this if the pharmacy is not in our network.

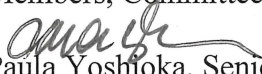
Pharmacy networks are designed to provide consumers convenient access to prescriptions at discounted rates. Pharmacies receive discounted dispensing fees in exchange for being included in our networks. The more limited the network, the greater the discount in exchange for the expected increase in business. HB 1672 eliminates the incentive for pharmacies to offer discounts join out networks because they will no longer have that expectation of increased business from patients using network pharmacies in exchange for lower copayments. As a result, plan costs will increase as network pharmacies will demand higher dispensing fees to match those of their out-of-network competitors provided a financial advantage under the provisions of HB 1672.

For these reasons, we respectfully request that the committee defer action on this proposal. Thank you for the opportunity to submit testimony on this matter.



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Michelle N. Kidani, Vice Chair
Members, Committee on Commerce, Consumer Protection, and Health

From:  Paula Yoshioka, Senior Vice President, The Queen's Health Systems

Date: March 23, 2016

Hrg: Senate Committee on Commerce, Consumer Protection, and Health Hearing; Tuesday,
March 29, 2016 at 9:00AM in Room 229

Re: Support for HB 1672, HD2, Relating to Prescription Drug Benefits

My name is Paula Yoshioka and I am a Senior Vice President at The Queen's Health Systems (Queen's). I would like to express my **support** for HB 1672, HD2, Relating to Prescription Drug Benefits. This bill authorizes a beneficiary of a prescription drug benefit plan to obtain a prescription without penalty from a non-network retail community pharmacy located within fourteen miles of the beneficiary's residence, if the nearest network retail community pharmacy is located over fourteen miles away.

Queen's believes this bill would provide greater access to pharmaceutical care for patients who do not currently have sufficient access to a network pharmacy. For neighbor islands like Molokai, having access to non-network pharmacies is a substantial increased benefit. Your support of this measure will mean greater access for our patients across the state and will increase health care services within our community.

Thank you for your time and consideration of this matter.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



March 29, 2016

The Honorable Rosalyn Baker, Chair
The Honorable Michelle Kidani, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Re: HB 1672, HD2 – Relating to Prescription Drug Benefits

Dear Chair Baker, Vice Chair Kidani, and Members of the Committee:

The Hawai'i Association of Health Plans (HAHP) respectfully submits comments in opposition to HB 1672, HD2, which authorizes a beneficiary of a prescription drug benefit plan to obtain a prescription without penalty from a non-network retail community pharmacy located within fourteen miles of the beneficiary's residence, if the nearest network retail community pharmacy is located more than fourteen miles away.

While we appreciate the intent of this measure, we are concerned that this bill would negatively impact the quality management aspect of a health plan's pharmacy network. A health plan's ability to manage its medical, pharmacy, and dental provider network is essential in maintaining an effective and cost-efficient healthcare system for our members.

If a claim from non-participating pharmacies are to be treated as if they are participating, it would eliminate any incentive for pharmacies to join a health plan network. This would result in additional cost to the overall health system.

Thank you for allowing HAHP to testify in opposition to HB 1672, HD2.

Sincerely,

Wendy Morriarty, RN, MPH
Chair, HAHP Public Policy Committee

Cc: HAHP Board Members



949 Kamokila Boulevard, 3rd Floor, Suite 350, Kapolei, HI 96707
808.675.7300 | www.ohanahealthplan.com

March 29, 2016

To: The Honorable Chair Rosalyn Baker
Senate Committee on Commerce, Consumer Protection, and Health

From: 'Ohana Health Plan
Danny Cup Choy, Government & Community Affairs Manager

Re: HB 1672, HD2, Relating to Prescription Drug Benefits; **Oppose**
March 29, 2016; Conference Room 229

'Ohana Health Plan ('Ohana) is a member of the WellCare Health Plans, Inc.'s ("WellCare") family of companies and provides healthcare for Hawai'i residents statewide. Since 2009, 'Ohana has utilized WellCare's national experience to develop a Hawai'i -specific care model that addresses local members' healthcare and health coordination needs. By focusing on the state's Medicaid and Medicare population, 'Ohana serves Hawaii's most vulnerable residents: low-income, elderly, disabled, and individuals with complex medical issues. Our mission is to help our members' lead better, healthier lives.

'Ohana Health Plan **opposes** HB 1672, HD2, which authorizes a beneficiary of a prescription drug benefit plan to obtain a prescription without penalty from a non-network retail community pharmacy located within fourteen miles of the beneficiary's residence, if the nearest network retail community pharmacy is located more than fourteen miles away.

While we appreciate the intent of this measure, we would like to provide the following concerns. A health plan's ability to manage its pharmacy network is important for the quality and cost to the entire health system. Allowing non-network pharmacies to be able to dispense medication could weaken our ability ensure our members receive safe and cost effective care.

In addition, allowing a non-participating pharmacy to submit a claim and be reimbursed at a non-negotiated rate would eliminate any incentive for pharmacies to join a health plan network. This would undermine our ability to build a quality, cost-effective pharmacy network to best serve our members.

Thank you for the opportunity to submit testimony on this measure.



Eric P. Douglas
Senior Director, Government Affairs

2211 Sanders Road
Northbrook, IL 60062

p 847.559.3422
c 847.651.9807
f 401.652.9342

Eric.Douglas@CVSHealth.com

The Honorable Rosalyn Baker
Chair, Senate Committee on Commerce, Consumer Protection and Health

Tuesday, March 29, 2016
Conference Room 229; 9:00 AM

RE: HB 1672 HD2 – Relating to Prescription Drug Benefits – In Opposition

Aloha Chair Baker, Vice Chair Kidani and members of the Committee:

CVS Health is in opposition to HB 1672 HD2. CVS Health's Pharmacy Benefit Management ("PBM") division, CVS Caremark, maintains a robust retail pharmacy network for our PBM clients encompassing in excess of 92 percent of all pharmacies in Hawaii. We are concerned that HB 1672 HD2, though well intended, will increase upfront costs to certain plan members and also serve as a deterrent toward utilization of cost saving measures adopted by plan sponsors (i.e. health plans, Taft-Hartley trusts, state employee/retiree plans, etc.) such as formulary standards and drug utilization review.

Specifically, we would like to offer the following comments:

- Healthcare networks are key to not only access and affordability but also safety. When health plans and PBMs have a contract with a pharmacy provider, the provider must meet certain obligations, e.g. hours of operation, proof of licensure, right to inspect/audit, formulary/plan design standards, drug interaction and many other aspects that are directly or indirectly related to patient safety.
- Very few retail pharmacies in Hawaii are not in the CVS Caremark PBM network and a pharmacy may join the CVS Caremark network, or any other PBM/health plan network at any time. However, if HB 1672 HD2 were to pass we are unsure how it would serve as a convenience to patients or could even be implemented as intended. If a pharmacy is not part of the CVS Caremark network and has no contract with us, an Rx claim would be forced to be billed to the patient as a cash prescription. This results in the patient chasing their own claim back through their insurer, and if under the bill the insurer must pay whatever the pharmacy has charged this will necessarily result in an increase in overall healthcare costs in Hawaii. Also, as a non-network pharmacy, they cannot access patient Rx history or plan formulary because they will not have access to our network.
- Depending on the total volume of prescriptions and the overall monetary impact of Rx's eligible under HB 1672 HD2, the potential exists for higher costs passed on to health plans, which can trigger a need to review the underwriting and rates, again directly and negatively impacting consumers and plan beneficiaries.
- Pursuant to HB65/Act 226 of 2013 every retail pharmacy in Hawaii is eligible to be in the CVS Caremark network. The retail pharmacies who are not within a network made a business decision not to join a retail pharmacy network—therefore, HB 1672 HD2 is adverse to the pharmacies that have made a decision to join a retail pharmacy network. It has the potential to negate all of the cost-savings measures and health benefits such as DUR, adherence/compliance and generic utilization targets such networks ensure along with it.

CVS Health proudly operates as the largest pharmacy chain in Hawaii, under our Longs Drugs banner and we also offer our patients and clients a wide range of comprehensive, integrated pharmacy and health operations statewide including: Pharmacy Benefit Management (PBM) services (CVS Caremark), Specialty Pharmacy (CVS/specialty), Mail-Order and Retail Pharmacy (CVS/pharmacy/Longs Drugs), Retail Health Clinics (CVS/minute clinic) and a distribution center.

We thank you for your consideration of our comments and ask that the Committee defer this measure.

Respectfully,

A handwritten signature in black ink, appearing to read "Eric P. Douglas".

Eric P. Douglas

CVS pharmacy / caremark / minute clinic / specialty

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Walgreen Company**

DATE: March 28, 2016

TO: Senator Rosalyn Baker
Chair, Committee on Commerce, Consumer Protection, and Health
CPHtestimony@capitol.hawaii.gov

RE: **H.B. 1672, HD2 – Relating to Prescription Drug Benefits**
Hearing Date: Tuesday, March 29, 2016 at 9:00 a.m.
Conference Room: 229

Dear Chair Baker and Members of the Committee on Commerce, Consumer Protection and Health,

We submit these **comments** on behalf of Walgreen Co. (“Walgreens”). Walgreens operates stores at more than 8,200 locations in all 50 states, the District of Columbia and Puerto Rico. In Hawaii, Walgreens now has 20 stores on the islands of Oahu, Maui and Hawaii.

Walgreens takes no position on the H.D.2 as drafted, but notes that there is a companion to this measure, S.B. 2376, which was amended in the S.D.1 to include in section 1, subsection (c), a tiered dispensing fee for non-network retail community pharmacies. Walgreens respectfully opposes this provision because it would create inequity between non-network retail community pharmacies and network pharmacies by establishing a dispensing fee by statute as opposed to by contract. If the Committee is inclined to pass this measure, Walgreens would respectfully request that this provision be left out.

Thank you for the opportunity to submit testimony on this measure.

Gary M. Slovin
Mihoko E. Ito
C. Mike Kido
Tiffany N. Yajima

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(808) 539-0840