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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Health and Human Services
Monday, February 12, 2024

1:02 p.m.

State Capitol, Conference Room 225 and via Video Conferencing

On the following measure:
S.B. 2259, S.D. 1, RELATING TO HEALTH

Chair San Buenaventura and Members of the Committee:

My name is Gordon Ito, and I am the Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to require each employer group health policy, contract, plan, or agreement and each individual and group hospital or medical service plan, policy, contract, or agreement issued or renewed by health insurers in the State after December 31, 2024, to provide coverage for dental and vision preventative care, diagnosis, and treatment; and requires every insurer and mutual benefit society to provide written notice to policyholders and members no later than December 31, 2025.

We note that it is unclear whether the amendments in sections 1 through 3 of this bill, which require employer health plans to provide coverage for dental and vision preventative care, diagnosis, and treatment, would be construed as "in addition to the essential health benefits" within the meaning of 45 Code of Federal Regulations (CFR)

Testimony of DCCA

S.B. 2259, S.D.1

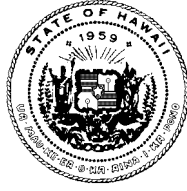
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§ 155.170(a), or subject to defrayment provisions under 45 CFR § 155.170(b) which apply to benefits “in addition to the essential health benefits.”

For the Committee’s information, Hawaii Revised Statutes section 23-51 provides, in part, that “[b]efore any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies, [sic] can be considered, there shall be concurrent resolutions passed requesting the auditor to prepare and submit to the legislature a report[.]”

Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
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TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 11, 2024

TO: The Honorable Senator Joy A. San Buenaventura, Chair
Senate Committee on Health & Human Services

FROM: Cathy Betts, Director

SUBJECT: [SB 2259 SD1](#) - RELATING TO HEALTH.

Hearing: February 12, 2024, 1:02 p.m.
Conference Room 225 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the bill, provides comments, and respectfully requests an amendment to delete Part II, Section 5 (page 4, lines 1-8) as the Medicaid program already provides the proposed services.

PURPOSE: This measure statutorily mandates coverage for dental and vision preventive, diagnostic, and treatment services by all individual and employer health plans, policies, contracts, plans, or agreements issued or renewed after December 31, 2024; requires notification to members regarding the coverage no later than December 31, 2025; and mandates coverage of dental and vision preventive, diagnostic, and treatment services by the State's Medicaid program beginning January 1, 2025. The effective date of the measure is July 1, 2024, provided the Medicaid portion of the measure is effective upon the approval of the Hawaii Medicaid State Plan Amendment by the Centers for Medicare and Medicaid Services. (SD1)

DHS appreciates the Legislature's continued attention to vision and dental health services. The Medicaid program already provides coverage for vision and dental prevention,

February 11, 2024

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diagnosis, and treatment services for all Medicaid beneficiaries. Therefore, DHS respectfully requests an amendment to delete Part II, Section 5 (page 4, lines 1-8), as the Medicaid program does not require a statutory change.

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

SB-2259-SD-1

Submitted on: 2/8/2024 5:42:20 PM

Testimony for HHS on 2/12/2024 1:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Doris Matsunaga	Testifying for Indivisible Hawaii Healthcare Team	Support	Written Testimony Only

Comments:

Indivisible Hawaii Healthcare Team supports SB2259 SD1 which requires all insurance policies to provide coverage for dental and vision preventative care, diagnosis, and treatment.



**Testimony to the Senate Committee on Health and Human Services
Monday, February 12, 2024; 1:02 p.m.
State Capitol, Conference Room 225
Via Videoconference**

RE: SENATE BILL NO. 2259, SENATE DRAFT 1, RELATING TO HEALTH.

Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **OFFERS COMMENTS** on Senate Bill No. 2259, Senate Draft 1, RELATING TO HEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would require each employer group health policy, contract, plan, or agreement and each individual and group hospital or medical service plan, policy, contract, or agreement issued or renewed by health insurers in the State after December 31, 2024, that provides coverage, including Medicaid, to cover dental and vision preventative care, diagnosis, and treatment. The bill also would require every insurer and mutual benefit society to provide written notice to policy holders and members no later than December 31, 2025.

The HPCA has grave concerns that the enactment of this bill, as presently drafted, might result in serious, unintended consequences to Hawaii's Prepaid Health Care Act, Chapter 393, Hawaii Revised Statutes (HRS).

Testimony on Senate Bill No. 2259, Senate Draft 1
Monday, February 12, 2022; 1:02 p.m.
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Hawaii is the only state that requires employers to provide health insurance to employees. Hawaii is able to enforce this requirement because the Congress passed legislation exempting Hawaii's 1974 law from certain provisions of the Employee Retirement Income Security Act of 1974 (ERISA). In part because the Prepaid Health Care Act took effect before ERISA was enacted, Hawaii is the only state with such an exemption. This exemption, however, has frozen the Prepaid Health Care Act in its original form.

The ERISA exemption is limited to Hawaii's Prepaid Health Care Act as it was passed in 1974. As such, the State cannot amend the Act unless specific legislation is passed by the Congress. [See, Testimony by the United States General Accounting Office to the United States Senate Committee on Finance dated September 9, 1992, entitled, State Health Care Reform: Federal Requirements Influence State Reforms, p. 6; <https://www.gao.gov/assets/t-hrd-92-55.pdf>]

The State cannot modify the mandated benefit package for employer-provided insurance, require coverage for dependents, or change the cost-sharing formula for premiums. [See, Ibid, p.6]

The Prepaid Health Care Act requires health plans to offer minimum benefits that include hospital, surgical, medical, diagnosis, and maternity coverage – **but not dental or vision benefits.** [See, Section 393-7, HRS.]

Although this bill seeks to establish mandatory employer-sponsored health insurance coverages for dental or vision through amendments in the Insurance Code, one could argue that the practical effect of this approach would be to expand the minimum coverages specified under the Prepaid Health Care Act.

Seeking advice from the Attorney General, Insurance Commission, and the Department of Labor and Industrial Relations would seem prudent. However, ultimately it would be left to the courts to determine the final outcome.

If this Committee wishes to proceed with this measure, the HPCA strongly recommends that it seeks a legal opinion from the Employee Benefits Security Administration of the United States Department of Labor, the federal agency that administers ERISA. Specifically, we ask that you seek advice on the following questions:

- (1) Would the exemption from federal ERISA preemption afforded to Hawaii's Prepaid Health Care Act remain valid if Senate Bill No. 2259 was enacted in the form Senate Draft 1; and
- (2) Would the enactment of Senate Bill No. 2259 in the form Senate Draft 1 be preempted under ERISA.

Testimony on Senate Bill No. 2259, Senate Draft 1
Monday, February 12, 2022; 1:02 p.m.
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As an organization, the HPCA believes that the Hawaii Prepaid Health Care Act is the main pillar for the entire health care system in Hawaii. Any proposal that might possibly jeopardize its continuation must be taken very seriously. Should employer-mandated health insurance coverage end, the number of uninsured in this State will explode. This would put an enormous strain on Medicaid and FQHCs, threaten the general welfare of citizens, and ultimately denigrate health care outcomes of patients.

Accordingly, we respectfully ask that you proceed cautiously.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.



February 12, 2024

The Honorable Joy A. San Buenaventura, Chair
The Honorable Henry J.C. Aquino, Vice Chair
Senate Committee on Health and Human Services

Re: SB 2259 SD1 – RELATING TO HEALTH

Dear Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to comment on SB 2259 SD1, which will require each employer group health policy, contract, plan, or agreement and each individual and group hospital or medical service plan, policy, contract, or agreement issued or renewed by health insurers in the State after December 31, 2024, that provides coverage, to provide coverage for dental and vision preventative care, diagnosis, and treatment.

HMSA appreciates the efforts of the legislature to address health care access to our residents. As written, it is not clear as to what type of services would be mandated under the proposed “coverage for dental and vision preventative care, diagnosis, and treatment.”

We believe this measure also proposes to create a new mandated health benefit and we respectfully request that the auditor first conduct a study to assess the social and financial costs pursuant to HRS 23-51 and 23-52. Thank you for the opportunity to offer our comments on SB 2259 SD1.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

SB-2259-SD-1

Submitted on: 2/8/2024 3:03:52 PM

Testimony for HHS on 2/12/2024 1:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Deb Nehmad	Individual	Support	Written Testimony Only

Comments:

Please support

SB-2259-SD-1

Submitted on: 2/8/2024 5:08:49 PM

Testimony for HHS on 2/12/2024 1:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Leake	Individual	Support	Written Testimony Only

Comments:

SB2259 would require all insurance policies to provide coverage for dental and vision preventative care, diagnosis, and treatment. As a retired APRN who served mostly QUEST patients for the past 30 years in Hawaii, I know first hand the problems that lack of dental care can cause. With covered preventive care, many dental problems can be prevented. Screening for glaucoma and cataracts as part of routine care are essential for early treatment to prevent loss of vision. I'm asking for your yes vote on SB2259 for all of the insured people of Hawaii.

SB-2259-SD-1

Submitted on: 2/8/2024 5:29:29 PM

Testimony for HHS on 2/12/2024 1:02:00 PM

Submitted By	Organization	Testifier Position	Testify
Doris Matsunaga	Individual	Support	Written Testimony Only

Comments:

Save Medicaid Hawaii supports SB2259 SD1

To: Hawaii State Senate Committee on Health & Human Services

Hearing Date/Time: Thursday February 12, 2024, 1:02pm

Place: Hawaii State Capitol, CR 225 & Videoconference

Re: Judith Ann Armstrong supports SB2259 RELATING TO Health

Dear Chair Senator Joy A. San Buenaventura, Vice Chair Senator Henry J. C. Aquino and members of the Committee on Health & Human Services

I, Judith Ann Armstrong, support SB2259 RELATING TO Health.

This bill requires all insurance policies to provide coverage for dental and vision preventative care, diagnosis, and treatment which are essential for good health.

Thank you for this opportunity to testify in support of S2259.

Sincerely,

Judith Ann Armstrong