

ACT 291

S.B. NO. 2794

A Bill for an Act Relating to Health Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds it necessary to supplement institutional health care reimbursements for inpatient care under section 346-59, Hawaii Revised Statutes, relating to medical care payments by the department of human services. This is due to a shortfall between medicare and medicaid payments from the federal government and the cost of services rendered by the medical institutions. The intent of this Act is not to jeopardize the receipt of any federal aid for reimbursements.

SECTION 2. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1990-1991 to be exceeded by \$3,000,000, or 0.12 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 3. There is established a "blue ribbon" panel within the department of health to examine the financial and economic dynamics of the health care industry in Hawaii, with a special emphasis on utilizing the data already generated in previous studies, gathering other pertinent information, and pursuing the following goals:

- (1) To understand how Hawaii's health care businesses make money, lose money, finance their operations, and transfer costs to consumers;
- (2) To understand the true problems inherent in federal programs, such as medicare and medicaid, and to understand their impacts on the financial well-being of health care delivery systems;
- (3) To understand the difference between a long-term care business, an acute hospital business, a primary care business, a health maintenance organization, and outreach efforts, in terms of how each kind of health care delivery business attempts to survive and prosper; and
- (4) To determine the effectiveness and advisability of utilizing specific mechanisms to control the cost of health care by:
 - (A) Regulating health insurance;
 - (B) Regulating facility costs;
 - (C) Using mechanisms such as the cooperative purchasing of vaccines and competitive bidding to procure services and equipment; and
 - (D) Utilizing any combination of subparagraphs (A), (B), and (C), as well as other strategies.

The governor, in consultation with the speaker of the house of representatives and the president of the senate, shall appoint a "blue ribbon" panel to include representatives from: the office of state planning, labor unions, business groups, financial institutions, consumer advocates, and other state agencies, such as the state health planning and development agency, the department of labor and industrial relations, the department of personnel services, and the department of budget and finance, as well as one representative from the Hawaii medical association and one representative from the health care association of Hawaii. The legislative auditor shall provide assistance to the blue ribbon panel upon request.

The blue ribbon panel shall submit a preliminary report of its findings and recommendations to the legislature not less than twenty days prior to the convening of the regular session of 1991, and a final report not less than twenty days prior to the convening of the regular session of 1992.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much as may be necessary for fiscal year 1990-1991, to be allocated for the establishment and operational costs of the blue ribbon panel.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,750,000¹⁰, or so much thereof as may be necessary for fiscal year 1990-1991, to be distributed to all medicaid participating institutional providers of medical care; provided that any organization receiving funds under this Act shall meet all of the following standards:

- (1) Be a profit organization incorporated under the laws of the State or a nonprofit organization determined to be exempt from the federal income tax by the Internal Revenue Services;
- (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation;
- (3) Have bylaws or policies, describing the manner in which business is conducted, and including policies relating to nepotism and management of potential conflict of interest situations;
- (4) Have at least one year's experience with the medicaid program; and
- (5) Be licensed and accredited, as applicable, in accordance with the requirements of federal, state, and county governments; and

provided further that any organization receiving funds under this Act shall agree to comply with the following conditions before receiving funds:

- (1) Employ or have under contract such persons as are qualified to engage in the activity to be funded in whole or in part by the State; provided that for nonprofit organizations, no two or more members of a family or kin of the first or second degree shall be employed or under contract by the organization;
- (2) Comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or physical handicap;
- (3) Agree not to use public funds for purposes of entertainment or prerequisites; and
- (4) Comply with such other requirements as the director may prescribe to ensure adherence by the provider or recipient with federal, state, and county laws.

SECTION 6. Every expenditure of funds under this Act shall be monitored by the appropriate agency to ensure compliance with the qualifying standards and conditions and the public purpose and legislative intent of the Act, and shall be evaluated to determine whether the expenditure attained the intended results in the manner contemplated. The department of health or an agent designated by the department of health shall develop procedures and adopt rules regarding monitoring and evaluating the expenditure of funds under this Act. Chapter 91, Hawaii Revised Statutes, shall not apply to the development of procedures and adoption of these rules.

SECTION 7. The qualifying standards and conditions related to the receipt of funds contained in chapter 42, Hawaii Revised Statutes, shall not apply to funds expended under this Act.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance is held by the United States Department of Health and Human Services to jeopardize federal contributions to the State's medicaid reimbursement system, that provision shall be invalid.

SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other

provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 11. This Act shall take effect on July 1, 1990, and shall be repealed on June 30, 1992.

(Approved June 26, 1990.)

Note

1. Item vetoed and initialed "JW".