THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

S.B. NO. 2542

JAN 18 2008

A BILL FOR AN ACT

RELATING TO PUBLIC HEALTH.

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

SECTION 1. The legislature finds that federally qualified health centers provide the best system of community-based primary care for people who are uninsured, underinsured, or medicaid recipients. However, over the years, the federally qualified health centers and rural health centers have experienced a tremendous increase in usage. Adding to the strain placed on these facilities are the following:

(1) The ever-evolving nature and complexity of the services provided;

(2) Inadequate procedures through which medicaid payment and changes in the scope of services provided are addressed; and

(3) The lack of adequate funding to pay for services for the uninsured.

The purpose of this Act is to ensure that the community health center system remains financially viable and stable in the face of the increasing needs of the population of uninsured

and underinsured residents by creating a process whereby community health centers and rural health centers will receive supplemental medicaid payments and seek modifications to their scope of services. This Act also provides an appropriation to adequately pay federally qualified community health centers for services for the uninsured.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"**§346-A Federally qualified health centers and rural health centers; reconciliation of managed care supplemental payments.** (a) Reconciliation of managed care supplemental payments to a federally qualified health center or a rural health center may be made by:

(1) Requiring reports for final settlement under this section to be filed within one hundred fifty days following the end of a calendar year in which managed care supplemental payments are received from the department;

(2) Requiring all records that are necessary and appropriate to document the settlement claims in

reports under this section to be maintained and made available upon request to the department;

(3) Requiring the department to review all reports for final settlement within one hundred twenty days of receipt.

(A) The review may include a sample review of financial and statistical records. Reports shall be deemed to have been reviewed and accepted by the department if not rejected in writing by the department within one hundred twenty days of their initial receipt dates;

(B) If a report is rejected, the department shall notify the federally qualified health center or rural health center no later than at the end of the one hundred twenty-day period, of its reasons for rejecting the report. The federally qualified health center or rural health center shall have ninety days to correct and resubmit the final settlement report;

(C) If no written rejection by the department is made within one hundred twenty days, the department shall proceed to finalize the reports within one

hundred twenty days of their date of receipt to determine if a reimbursement is due to, or payment is due from, the reporting federally qualified health center or rural health center. Upon conclusion of the review, and no later than two hundred ten days following initial receipt of the report for final settlement, the department shall calculate a final reimbursement that is due to, or payment that is due from, the reporting federally qualified health center or rural health center. The payment amount shall be calculated using the methodology described in this section;

(D) No later than at the end of the two hundred ten-day period, the department shall notify the reporting federally qualified health center or rural health center of the reimbursement due to, or payment due from, the reporting federally qualified health center or rural health center, and where payment is due to the reporting federally qualified health center or rural health center, the department shall make full payment to

the federally qualified health center or rural health center; and

(E) The notice of program reimbursement shall include the department's calculation of the reimbursement due to, or payment due from, the reporting federally qualified health center or rural health center. All notices of program reimbursement or payment due shall be issued by the department within one year from the initial report for final settlement's receipt date, or within one year of the resubmission date of a corrected report for final settlement, whichever is later;

(4) Allowing every federally qualified health center or rural health center to appeal a decision made by the department under this subsection on the prospective payment system rate adjustment if the medicaid impact is $10,000 or more, whereupon an opportunity for an administrative hearing under chapter 91 shall be afforded. Any person aggrieved by the final decision and order shall be entitled to judicial review in accordance with chapter 91 or may submit the matter to binding arbitration pursuant to chapter 658A.

Notwithstanding any provision to the contrary, for the purposes of this paragraph, "person aggrieved" shall include any federally qualified health center, rural health center, or agency that is a party to the contested case proceeding to be reviewed; or

(5) Allowing the department to develop a repayment plan to reconcile overpayment to a federally qualified health center or rural health center. The department shall repay the federal share of any overpayment within sixty days of the date of the discovery of the overpayment.

(b) An alternative managed care supplemental payment methodology that will make any federally qualified health center or rural health center whole as required under the Benefits Improvement and Protection Act, other than the one set forth in this section, may be implemented as long as the alternative payment methodology is consented to in writing by the federally qualified health center or rural health center to which the methodology applies.

§346-B Federally qualified health center or rural health center; adjustment for changes to scope of services. Prospective payment system rates may be adjusted for any

adjustment in the scope of services furnished by a participating federally qualified health center or rural health center; provided that:

(1) The department is notified in writing of any changes to the scope of services and the reasons for those changes within sixty days of the effective date of those changes;

(2) Data, documentation, and schedules are submitted to the department that substantiate any changes in the scope of services and the related adjustment of reasonable costs following medicare principles of reimbursement;

(3) A projected adjusted rate is proposed that is approved by the department.

(A) The federally qualified health center or rural health center shall propose a projected adjusted rate to which the department may agree. The proposed projected adjusted rate may be calculated on a consolidated basis, where the federally qualified health center or rural health center takes all costs for the facility that would include both the costs included in the base

rate, as well as the additional costs for the change, as long as the federally qualified health center or rural health center had filed its baseline cost report based on total consolidated costs;

(B) A net change in the federally qualified health center's or rural health center's rate shall be calculated by subtracting the federally qualified health center's or rural health center's previously assigned prospective payment system rate from its projected adjusted rate. The department may disallow per cent of the net change to account for a combination that includes both cost increases and decreases during the reporting period;

(C) Within ninety days of its receipt of the projected adjusted rate, the department shall notify the federally qualified health center or rural health center of its approval or rejection of the projected adjusted rate. Upon approval by the department, the federally qualified health center or rural health center shall be paid the

projected rate for the period from the effective date of the change in scope of services through the date that a rate is calculated based on the submittal of cost reports. Cost reports shall be prepared in the same manner and method as those submitted to establish the proposed projected adjusted rate and shall cover the first two full fiscal years that include the change in scope of services;

(D) The department's decision on the prospective payment system rate adjustment may be appealed if the medicaid impact is $10,000 or more, whereupon an opportunity shall be afforded for an administrative hearing under chapter 91. Any person aggrieved by the final decision and order shall be entitled to judicial review in accordance with chapter 91 or may submit the matter to binding arbitration pursuant to chapter 658A. Notwithstanding any provision to the contrary, for the purposes of this paragraph, "person aggrieved" shall include any federally qualified health center, rural health center, or

agency that is a party to the contested case proceeding to be reviewed;

(4) Upon receipt of the cost reports for the first two full fiscal years reflecting the change in scope of services, the prospective payment system rate may be adjusted following a review by the fiscal agent of the cost reports and documentation;

(5) Adjustments shall be made for payments for the period from the effective date of the change in scope of services through the date of the final adjustment of the prospective payment system rate;

(6) For the purposes of this section, a change in scope of services provided by a federally qualified health center or rural health center means any of the following:

(A) The addition of a new service that is not incorporated in the baseline prospective payment system rate, or a deletion of a service that is incorporated in the baseline prospective payment system rate;

(B) A change in service resulting from amended regulatory requirements or rules;

(C) A change in service resulting from either remodeling or relocation;

(D) A change in types, intensity, duration, or amount of service resulting from a change in applicable technology and medical practice used;

(E) An increase in service intensity, duration, or amount of service resulting from changes in the types of patients served, including but not limited to populations with HIV, AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations;

(F) A change in service resulting from a change in the provider mix of a federally qualified health center or a rural health center or one of its sites;

(G) Changes in operating costs due to capital expenditures associated with any modification of the scope of service described in this paragraph that result in a change in the amount, duration, or scope of services;

(H) Indirect medical education adjustments and any direct graduate medical education payment

necessary to provide instrumental services to interns and residents that are associated with a modification of the scope of service described in this paragraph; or

(I) Any changes in the scope of a project approved by the federal Health Resources and Services Administration where the change affects a covered service;

(7) A federally qualified health center or rural health center may submit a request for prospective payment system rate adjustment for a change to its scope of services once per calendar year based on a projected adjusted rate; and

(8) All references in this subsection to "fiscal year" shall be construed to be references to the fiscal year of the individual federally qualified health center or rural health center, as the case may be.

§346-C Federally qualified health center or rural health center visit. (a) Services eligible for prospective payment system reimbursement include:

(1) Services that are:

(A) Ambulatory, including evaluation and management services when furnished to a patient at a federally qualified health center site, hospital, long-term care facility, the patient's residence, or at another institutional or off-site setting; and

(B) Within the scope of services provided by the State under its fee-for-service medicaid program and its health QUEST program, on and after August 1994, and as amended from time to time; and

(2) A "visit", which for the purposes of this section, shall mean any encounter between a federally qualified health center or rural health center patient and a health professional as identified in the state plan as amended from time to time.

(b) Contacts with one or more health professionals and multiple contacts with the same health professional that take place on the same day and at a single location constitute a single encounter, except when one of the following conditions exists:

(1) After the first encounter, the patient suffers illness or injury requiring additional diagnosis or treatment; or

(2) The patient makes one or more visits for other services such as dental or behavioral health. Medicaid may pay for a maximum of one visit per day for each of these services in addition to one medical visit.

(c) If a patient sees two health professionals on the same day that result in additional diagnosis or treatment, this situation shall constitute two visits that may be billed on two separate claims with remarks on both claims explaining the reason for both visits."

SECTION 3. (a) Notwithstanding any laws to the contrary, reports for final settlement under section 346-A, Hawaii Revised Statutes, for each calendar year shall be filed within one hundred fifty days from the date the department of human services adopts forms and issues written instructions for requesting a settlement under that section.

(b) All payments owed by the department of human services shall be made on a timely basis.

SECTION 4. A federally qualified health center or rural health center shall submit a prospective payment system rate adjustment request under section 346-B, Hawaii Revised Statutes, within one hundred fifty days of the beginning of the calendar year occurring after the department of human services first adopts forms and issues written instructions for applying for a prospective payment system rate adjustment under section 346-B, Hawaii Revised Statutes, if, during the prior fiscal year, the federally qualified health center or rural health center experienced a decrease in the scope of services; provided that the federally qualified health center or rural health center either knew or should have known it would result in a significantly lower per-visit rate. As used in this paragraph, "significantly lower" means an average rate decrease in excess of 1.75 per cent.

Notwithstanding any law to the contrary, the first two full fiscal years' cost reports shall be deemed to have been submitted in a timely manner if filed within one hundred fifty days after the department of human services adopts forms and issues written instructions for applying for a prospective payment system rate adjustment for changes to scope of service under section 346-B, Hawaii Revised Statutes.

SECTION 5. The department of health may provide resources to nonprofit, community-based health care providers for direct medical care for the uninsured, including:

(1) Primary medical;

(2) Dental;

(3) Behavioral health care; and

(4) Ancillary services, including:

(A) Education;

(B) Follow-up;

(C) Outreach; and

(D) Pharmacy services.

Distribution of funds may be on a "per-visit" basis, taking into consideration need on all islands.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2008-2009 for the implementation of the prospective payment system.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much

thereof as may be necessary for fiscal year 2008-2009 to the department of health for direct medical care to the uninsured.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 8. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 9. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2008; provided that section 2 of this Act shall take effect upon approval of the state plan by the Centers for Medicare and Medicaid Services.

INTRODUCED BY: _____

S.B. NO. 2542

Report Title:
Public Health; Federally Qualified Health Centers

Description:
Ensures continued community-based primary care for the uninsured, underinsured, or medicaid recipients by helping the community health center system to remain financially viable and stable in the face of the increasing needs of these populations.