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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEE
ON
FINANCE

February 25, 2008

HB 1476

RELATING TO INSURANCE.

Chair Oshiro, Vice Chair Lee and committee members, thank you for the opportunity to testify on HB 1476. The State Procurement Office's (SPO) testimony is limited to Section 1, Page 3 lines 8 and 9, and Page 8 lines 21 and 22.

The SPO does not support the language to exempt compliance with HRS chapter 103D for any contract entered into for the creation of a Hawaii health insurance purchasing pool pursuant to this bill.

Statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part ". . . shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, . . ." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

The SPO is against statutorily exempting specific purchases from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable set of rules and processes for award of contracts. The competitive procurement processes of the Code are to insure that all potential providers are afforded the opportunity to compete for the required services. To the extent agencies may need specific purchases to be exempted from Code requirements, the Code provides an exemption process.

The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly to obtain its requirements. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic for the administration and vendors/contractors that must comply with a variety of processes. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, we must participate in the process with one set of statutes and rules.

In conclusion, there is no compelling reason to statutorily exempt any contract for the creation of a Hawaii health insurance purchasing pool from the Code. The SPO recommends amending Page 3, lines 8 and 9 and Page 8, lines 21 and 22 as follows:

Page 3, lines 8 and 9

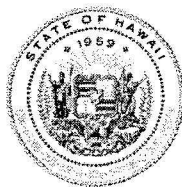
§ -3 **Powers of the commissioner.** The commissioner may:

- (1) Enter into contracts with carriers to provide health care coverage to eligible employees and their dependents. ~~Any contract entered into pursuant to this chapter shall be exempt from chapter 103D.~~ The commissioner shall not be required to specify the amounts encumbered for each contract, but may allocate funds to each contract based on projected and actual subscriber enrollments;

Page 8, lines 21 and 22

~~(c) — Any contract entered into pursuant to this section shall be exempt from chapter 103D.~~

Thank you.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, February 25, 2008
2:45 p.m.

TESTIMONY ON HOUSE BILL NO. 1476 – RELATING TO INSURANCE

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”) testifying on behalf of the Department of Commerce & Consumer Affairs (“Department”). The Department takes no position on this bill to establish a health insurance purchasing pool that would provide access to health insurance for those ineligible for coverage under the Hawaii Prepaid Health Care Act, chapter 393, Hawaii Revised Statutes.

We are all well aware that a number of Hawaii residents are not covered by health insurance despite the success of the Hawaii Prepaid Health Care Act. We believe that the health insurance purchasing pool contemplated by this bill could be one of the solutions to making health insurance available and affordable to the uninsured. We support the concept and are open to working with the supporters of this measure but are concerned that if enacted in its present form it would have unintended consequences and raise issues of conflict in regards to the Commissioner’s role contemplated by this bill.

Some of the issues of concern and points that we believe would benefit from consideration and clarification are:

1. The Commissioner's role as operator of this pool and, as the operator, contracting for health insurance with companies and entities that the Commissioner is charged with regulating. This dual role could easily raise issues regarding the Commissioner's regulatory action or lack of regulatory action involving an entity that is part of the pool. We suggest that the legislature consider whether an independent authority dedicated to operating this program and not involved in regulation might be a more appropriate way of managing this program.
2. By allowing the pool to offer insurance to individuals or self employed persons who are not eligible for coverage under the Hawaii Prepaid Health Care Act, the insurance pool established by this bill would compete with insurers who are now offering individual health plans or sole proprietor coverage. Perhaps we should be looking at ways of improving those markets rather than having a government funded entity compete in those markets. In this regard we would recommend your consideration of H.B. 1320, an administration bill that extends group health insurance coverage to sole proprietors and part time employees.
3. This bill is not clear as to whether it is the legislative intent that the non-profit entity that assumes control of the pool after it is established could be a non-profit health insurance carrier. Or, conversely, is it intended that non-profit health insurance carriers that provide insurance plans for the pool are to be excluded from assuming control of the pool? There could well be problems with a carrier assuming control but, on the other hand, they are certainly in the best position to do so and there may well be no other types of non-profit entities willing to do so. This issue of whether a non-profit carrier could assume control of the pool is not necessarily addressed in section 13 dealing with conflicts of interest of decision makers, which, itself, is extremely convoluted.

4. The bill provides in section 12(b) that the Commissioner could relinquish the pool to a non-profit entity that submits a proposal to take over the pool prior to the 3 year time period after which the Commissioner must solicit bids. Section 12(b) does not require that the Commissioner seek other bids if an entity submits a proposal before the Commissioner requests bids. Is it the legislative intent that the Commissioner could relinquish the pool under 12(b) without soliciting other bids? If so, it should be clearly stated.
5. If no non-profit entity comes forward to take over the pool, how long will this pool continue under the Commissioner or other governing authority? And, if it is contemplated that this is a pilot project or experiment that could be ended at the will of the legislature, what happens to those people who are insured by the pool? If a private insurer decides to close its doors and go out of business there are laws that allow the Commissioner to step in and take over the business to protect the insureds from harm. There is no similar protection under this bill for those who give up the insurance they already have with a private company and join this pool. This needs to be addressed.
6. The bill requires that premiums for the program shall not exceed one hundred and ten percent of the median price of health insurance offered in the state. This is likely to be an unworkable requirement. The savings resulting from a purchasing pool is likely to be far less than half of the prevailing premium costs. Alternatively, enforcing this requirement may mean that the medical coverages will be inadequate. Thus, it may be impractical for the health plans to properly rate the pool because participants may opt out, making the initial rate obsolete. If this is the case, the concept may not be workable at a fundamental level. As a result, participants that can get better rates outside the pool may opt out, leaving those in the pool to pay increasingly higher rates and creating further incentives for participants to opt out. These types of rating issues should be researched with the health plans before approving this proposal.

7. Finally, we note that the title of section 7 references "enforcement" but there are no enforcement provisions in section 7.

We thank the Committee for the opportunity to present testimony on this matter and ask the committee to hold this measure or amend it to address the concerns we have raised.

HMSA



Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 25, 2008

The Honorable Marcus Oshiro, Chair
The Honorable Marilyn Lee, Vice Chair

House Committee on Finance

Re: HB 1476 – Relating to Insurance

Dear Chair Oshiro, Vice Chair Lee and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1476 which would authorize the Insurance Commissioner (IC) to administer, then transfer to a non-profit agency, a purchasing pool giving employers access to reduced-cost health care coverage for part-time and temporary employees, sole proprietors, and family businesses not covered under the Prepaid Health Care Act.

This measure was introduced in 2007 to provide health care coverage to individuals who do not fall under the Prepaid Health Care Act (PHCA). We believe there are many better measures that are moving along this session to accomplish the goals of HB 1476. There are more efficient methods for accomplishing this goal rather than having the Insurance Commissioner create and administer a new program.

One measure this session, SB 2530 SD2, would require health plans in the state to offer group health care coverage to sole proprietors. While allowing this group to purchase health care coverage in this fashion poses some risk to local health plans due to adverse selection, this measure contains protections that help to minimize this risk. As such, we believe that SB 2530 SD2 is a more appropriate vehicle to provide coverage to those who do not qualify under PHCA.

Thank you for the opportunity to provide comments on HB 1476.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", written over a white background.

Jennifer Diesman
Director, Government Relations