

LINDA LINGLE  
GOVERNOR



LILLIAN B. KOLLER, ESQ.  
DIRECTOR

HENRY OLIVA  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 24, 2009

MEMORANDUM

TO: Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services  
  
Honorable Brian T. Taniguchi, Chair  
Senate on Judiciary and Government Operations

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 1525, H.D. 1, Proposed S.D. 1 – RELATING TO MEDICAID**  
  
Hearing: Tuesday, March 24, 2009, 10:30 am  
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to require the Department of Human Services to award Medicaid contracts to nonprofit and for-profit entities which comply with specified reporting requirements.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes this bill that continues to distract attention from the important discussion of access, quality, and efficiency and instead uses a feigned interest in transparency to disguise the real purpose of this bill which is to limit competition that results in decreased choice and quality for Medicaid recipients, and decreased value for Hawaii tax payers.

DHS strongly supports transparency, particularly for the purpose of benefiting our clients. However, we are extremely disappointed that in all of the tribulations surrounding profit

status, the health and well being of our clients have been forgotten. No where in the proposed reporting requirements are health outcomes even mentioned.

If we are to believe that this bill, as well as other bills being considered by the legislature such as H.B. 1642 which would limit competition, is for those vulnerable people who do not have a voice, is this what we truly believe they would care about instead of their ability to receive necessary care in a timely and appropriate manner and their health status?

What is most important is that entities with State contracts fulfill the terms of those contracts. DHS imposes numerous requirements in the contract for the purpose of monitoring that the services were provided to our clients in the manner and volume contracted. However, in this bill most of the required information has nothing to do with the services contracted. How are salaries, and political or community contributions related to an entity's ability to meet the contractual requirements? This bill is not about transparency; it remains about profit status. The reporting requirements demonstrate this latent objective and inherent bias.

This bill makes a latent assumption that only non-profit entities constitute the safety-net for our needy DHS clients. This patently false. In fact, in our Medicaid program, most nursing care Medicaid clients are provided care from for-profit nursing homes that provide important contributions to the safety-net.

For-profit or non-profit status has not been shown to be associated with quality of care. Although half of the worst performing hospitals are for-profit, half of the best performing nursing homes are for-profit (Federal reviewers give 6 nursing homes in Hawaii poor scores, Honolulu Advertiser, December 18, 2008). In Hawaii, most physicians and pharmacies, many nursing homes, and some hospitals are for-profit.

These comments are in no way to imply that non-profits are in any way inferior to for-profits. But it should likewise not be assumed that a non-profit would always be superior to a for-profit. Through healthy competition, the best proposal should be selected.

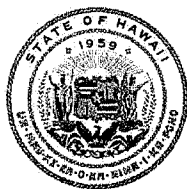
To increase transparency of contracted health plans, we are pursuing public reporting of quality measures and do support public reporting of any sanctions or penalties imposed on our

Hawaii contractors. We do believe it is important to account that the payment intended to go to direct patient services did indeed do so. To increase transparency of procurement, it might be useful to publicly release all technical proposals received (appropriately redacted for any proprietary information) and their scoring.

This bill seems to confuse monitoring and procurement. As written, the bill would seem to require that all future contractors be current contractors and fulfill the reporting requirements proposed in this bill. Otherwise, how could a new contractor successfully meet the reporting requirements before receiving a contract. This bill substantially limits DHS' ability to contract and places a tremendous burden on small businesses.

DHS strongly supports meaningful transparency for the purposes of improving health outcomes for our clients and value for our tax payers, but this bill not only achieves neither, it makes them worse by creating onerous and unrelated barriers to competition.

Thank you for the opportunity to comment on this bill.



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
919 ALA MOANA BOULEVARD, ROOM 113  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
March 24, 2009

The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services  
and  
The Honorable Brian T. Taniguchi, Chair  
Senate Committee on Judiciary and Government Operations  
Twenty-Fifth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Senators Chun Oakland and Taniguchi and Members of the Committees:

**SUBJECT: HB 1525 HD1 Proposed SD1 – RELATING MEDICAID**

The position and views expressed in this testimony do not represent nor reflect the position and views of the Departments of Health (DOH) and Human Services (DHS).

The State Council on Developmental Disabilities (DD) appreciates the intent of HB 1525 HD1 Proposed SD1 to require all future Medicaid health insurance procurement contracts to be awarded only to qualified nonprofit and for-profit entities with reporting requirements to the administrative agencies.

The Council supports provisions that require information to determine the qualifications of nonprofit and for-profit entities to be awarded health care insurance contracts. However, we cannot support the language in Section 2, Page 2, lines 21-22, and Page 3, lines 1-3, that states, "(a) The department of human services shall solicit proposals for the procurement of all Medicaid contracts in the State solely from nonprofit or for-profit entities that comply with the following annual reporting requirements; providing that all disclosure..."

The language as stated would include contracts between DHS and service providers for the Medicaid Home and Community- Based Services waiver programs. This would include the following waivers administered by DHS:

1. Developmental Disabilities/Mental Retardation (DD/MR) - administered and implemented by DHS and DOH
2. HIV Community Care Program

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The Honorable Brian T. Taniguchi  
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3. Medically Fragile Community Care Program
4. Nursing Home Without Walls
5. Residential Alternatives Community Care Program

Although the purpose of the bill states, "all future medicaid health insurance contracts..." it is not consistent with Section 2. of the bill. If it is interpreted and implemented to apply to all Medicaid contracts in the State, then those providers of the above mentioned Medicaid waiver programs would not meet the reporting requirements, as Section 2 includes very specific information that may not apply to them.

An unintended consequence would be that this bill would penalize all nonprofit and for-profit entities that have Medicaid contracts for not being able to meet reporting requirements that are not appropriate to the services they are contracted to provide.

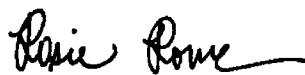
Section 2 requires very specific information, and the Council believes the reporting requirements would be more appropriately addressed in administrative rules or in the Request for Proposal (RFP) requirements rather than in statute. Future amendments in administrative rules or RFP requirements are more time efficient than amending statutory language.

The Council appreciates the opportunity to present testimony on HB 1525 HD1 Proposed SD1.

Sincerely,



Waynette K.Y. Cabral  
Executive Administrator



Rosie Rowe  
Chair



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

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**The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Human Services  
Committee on Judiciary and Government Operations**

**Testimony by  
Hawaii Government Employees Association  
March 24, 2009**

**H.B. 1525, H.D. 1 (Proposed S.D. 1) –  
RELATING TO MEDICAID**

The Hawaii Government Employees Association supports the purpose and intent of H.B. 1525, H.D. 1 (Proposed S.D.1). Although we prefer the House Draft 1 version of the bill which limited awarding Medicaid contracts only to non-profit entities, we still support the proposed S.D. 1

Non-profit organizations serve the public good rather than operate for profit. While it is a goal of non-profits to earn a margin on their work, they will continue to provide that service even if the margin becomes smaller.

This is very different from for-profit organizations which expect a sizeable return on their investment. The profit motive encourages the rationing of health care and paying enormous sums on executive compensation. The two for-profit companies, United Health Group, Inc. and WellCare Health Plans, Inc., who were awarded Medicaid contracts locally, have been accused of fraud on the Mainland.

Last month, the federal Centers for Medicare and Medicaid Services (CMS) stopped WellCare from marketing and enrolling new members in its Medicare-backed drug and medical plans. CMS said that WellCare used forged enrollment applications and provided misleading or inaccurate information to potential customers of these plans. CMS also found WellCare's performance to be substandard in numerous areas and one of the worst performers among all plans. They also had complaints numbering three times the national average.

The profit motive encourages for-profit health plans going into an area, collecting profits when times are good, but leaving the market once they earn a lower return on investment. Non-profit health plans will remain in a community because of their mission and their ability to survive on a smaller margin. The proposed S.D. 1 requires the Department of Human Services (DHS) to award Medicaid contract awards only to non-

Hawaii State Senate  
Committee on Human Services  
Committee on Judiciary & Government Operations  
Re: Testimony on H.B. 1525, H.D. 1 (Proposed S.D. 1)  
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profit and for-profit insurance entities who comply with specific disclosure requirements provided that these disclosure requirements are certified by the insurance commissioner.

For example, for-profit entities must report on their administrative costs, profit margin, return to investors, total compensation paid to high level executives of the company, any on-going state or federal sanction proceedings, on-going civil or criminal investigations, past sanctions or resolved criminal or civil cases, and political contributions from the entity and executive staff to Hawaii elected officials, to the extent allowed by law. In addition, DHS must provide a written analysis and comparative report to the Legislature on the reporting requirements. The Legislature can conduct hearings during the following legislative session, if necessary.

One concern is that these reporting requirements are after the fact. The contracts should be drafted to limit administrative costs, profit margin, return to investors and total compensation paid to executives. Moreover, if the for-profit entities violate the terms of the contract, there should be a progressive set of sanctions up to and including terminating the agreement.

Thank you for the opportunity to testify in support of H.B. 1525, H.D. 1 (Proposed S.D. 1).

Respectfully submitted,

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

Nora A. Nomura  
Deputy Executive Director

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

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March 24, 2009

The Honorable Suzanne Chun Oakland, Chair  
The Honorable Brian Taniguchi, Chair

Senate Committees on Human Services and Judiciary and Government Operations

**Re: HB 1525 HD1 Proposed SD1 – Relating to Medicaid**

Dear Chair Chun Oakland, Chair Taniguchi and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1525 HD1 Proposed SD1. We have concerns with the proposed draft.

While we appreciate the Legislature's attempt to gain pertinent information on health plans wishing to engage in the procurement process to provide Medicaid services, the language in the proposed Senate draft raises some concerns including:

Duplicative Efforts

The proposed language contained in the Senate draft would require that health plans engaging in contracts with the Department of Human Services to provide Medicaid services in the state are subjected to additional reporting requirements outside of that already included in the Request for Proposal (RFP) process. We believe that the majority of the requirements outlined within HB 1525 HD1 Proposed SD1 are already being reported in various ways by health plans operating in the state. We also feel that the requirements outlined in this measure will increase the administrative burden on health plans when submitting RFPs causing duplicative efforts and increasing the workload for what is already an onerous process.

Conflict of Interest

While we appreciate the Legislature's attempt to gain meaningful data on health plans interested in engaging in the procurement process to provide services to Hawaii's most vulnerable populations, we do, however, have concerns with the Insurance Commissioner (IC) being appointed to "certify" the submitted data. We believe that having the IC act in this capacity could potentially be a conflict of interest since the Insurance Division is also tasked with regulating health plans in the State. Plans would potentially be providing information to the Division which is typically not in their statutory purview. Providing this information could pose a conflict since the Division is tasked with reviewing health plan rate submissions and performing other regulatory functions. It is also unclear what type of review the IC would engage in or what requirements the information submitted would have to comply with in order to obtain a "certification" from the IC.



Relationship with Procurement Process

There does not seem to be any connection between the provision of the requirements in the proposed draft and the actual procurement process itself. There are no minimum standards which have to be met by an interested entity. It is also entirely unclear what purpose the information would be used for by either DHS or the Legislature. Additionally it seems that the Legislature is tasked with reviewing the analysis provided by DHS during the already hectic legislative session.

While we appreciate the Legislature's interest in protecting the State's Medicaid population, we believe that this measure may end up making an already burdensome process even more difficult to engage in. Thank you for the opportunity to testify today.

Sincerely,

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

Jennifer Diesman  
Assistant Vice President  
Government Relations



## Hawai'i Primary Care Association

345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347  
www.hawaiipca.net

To: **The Senate Committee on Human Services**

The Hon. Suzanne Chun Oakland, Chair

The Hon. Les Ihara, Jr., Vice Chair

**The Senate Committee on Judiciary and Government Operations**

The Hon. Brian T. Taniguchi, Chair

The Hon. Dwight Y. Takamine, Vice Chair

**Testimony in Support of House Bill 1525, HD 1**  
**Relating to Medicaid**  
**Submitted by Beth Giesting, CEO**  
**March 24, 2009, 10:30 a.m. agenda, Room 016**

The Hawaii Primary Care Association supports this bill, which would limit State contracts for Medicaid services to nonprofit health plans. We believe that this is sound State policy because:

- As taxpayers we expect our public resources for health, which continue to be inequitably and inadequately available, to be used for the public good, not for shareholder profits. This is especially true for Medicaid where the QUEST program has a cap on enrollment because not enough money is available to cover all the low income people who are eligible. It is also important in both QUEST and QUEST-Ex where providers are routinely asked to sacrifice their profits for the good of serving enrollees in this public program. It cannot sit well with these physicians and hospitals to see the health plan enjoy profits at the same time that they are suffering losses.
- Nonprofit organizations are motivated by mission rather than profit. That means that they are likely to be intrinsically invested in the enterprise as opposed to doing the job only as long as it is profitable. It is certainly the goal of nonprofits to earn a margin on their work but a nonprofit will continue to function when that margin is small as opposed to a for-profit, particular one with shareholders who expect a return on their financial investments. The profit motive has resulted in for-profit health plans coming into an area, sweeping up profits when the going was good, and abandoning the market when business became less profitable. Nonprofits will stick around because of their mission and their ability to survive on a smaller margin.
- All of the nonprofit health plans in Hawaii are based here and provide good jobs to people in Hawaii. They are not supporting an infrastructure in another state or country as a for-profit might be.
- Nonprofits must reinvest their margin in improving or expanding their services or in providing community support to other charities.
- The State has more regulatory and investigatory authority over nonprofits, which would result in few instances of rampant opportunism.
- Nonprofits are restricted from lobbying so there are no questions about contracts awarded due to political contributions.

Thank you for the opportunity to testify in support of this measure.

Committee on Human Services and  
Committee on Judiciary and Government Affairs  
Testimony in Support of HB 1525 HD 1: Relating to Medicaid  
Submitted By: Richard Bettini, Chief Executive Officer  
Contact: [wcchc@wcchc.com](mailto:wcchc@wcchc.com) or 697-3457

The Waianae Coast Comprehensive Health Center supports the intent of HB 1525 HD 1.

We believe the recent QUEST Expanded Access Bid Process produced poor value for both tax payer and citizen. Changes must be made to assure that insurance companies with poor performance records in other States do not receive contracts to provide healthcare to Hawaii's most vulnerable.

We believe the QUEST Expanded Access bid process needs to be investigated to determine why a health plan under federal investigation for fraud, with questionable financial stability and without a proven network of medical providers in Hawaii, receives a bid for hundreds of millions of dollars.

Unless stronger regulation related to disclosure is firmly in place, a limitation on for-profits doing business in Medicaid in Hawaii may be appropriate.

Mahalo.

To: The Honorable Suzanne Chun Oakland, Chair  
The Honorable Les Ihara, Jr., Vice Chair  
Senate Committee on Human Services

The Honorable Brian Taniguchi, Chair  
The Honorable Dwight Takamine, Vice Chair  
Senate Committee on Judiciary and Government Operations

From: Laura Kay Rand, Vice President of Corporate Services  
Goodwill Industries of Hawaii, Inc.

Date: March 24, 2009

Re: **Testimony opposed to H.B. 1525 HD1: Relating to Medicaid.**

Goodwill Industries of Hawaii, Inc. respectfully opposes House Bill 1525 HD1 in its current form which would require the Department of Human Services to award Medicaid contracts to nonprofit and for-profit entities which comply with specified reporting requirements.

If the goal of this Bill is to provide for transparency on Medicaid contracts, we believe the information listed in section 2 is best handled in the contracting process and within the Hawaii Administrative Rules rather than creating a specific section of the law to deal with these issues.

The list of required elements to be contained in an audit report would place undue and additional costs on non profit Medicaid providers which may limit their ability to manage these contracts within already tight margins.

Goodwill Industries of Hawaii is a 501(c)3 non-profit organization providing educational and career development programs for people with disabilities and other employment barriers, including welfare dependency, economic and resource barriers, lack of education/work experience, illiteracy and disadvantaged youth. Goodwill Industries of Hawaii, Inc. helps people with employment barriers to reach their full potential and become self-sufficient.

Since 1959, Goodwill Industries of Hawaii has provided small classes, on-the-job training, and placement services to fulfill our mission to put people back to work. Last year, Goodwill Industries of Hawaii served more than 9,400 individuals throughout the state in its career development and training programs and placed over 1,800 into jobs.

Thank you for this opportunity to provide testimony on this matter.



March 23, 2009

Senator Suzanne Chun Oakland, Chair  
Senate Committee on Human Services  
Hawaii State Capitol, Room 226  
415 South Beretania Street  
Honolulu, HI 96813

Senator Brian Taniguchi, Chair  
Senate Committee on Judiciary and Government Operations  
Hawaii State Capitol, Room 226  
415 South Beretania Street  
Honolulu, HI 96813

*Regarding: HB 1525 - Requires the Department of Human Services to Award Medicaid Contracts to Non-Profit Insurance Entities only.*

Chair Chun Oakland and Chair Taniguchi and members of the Senate Committee on Human Services and Senate Committee on Judiciary and Government Operations:

Thank you for the opportunity to provide testimony and comment with regard to HB 1525. I am Dave Heywood, United Healthcare's Executive Director for Hawaii. United Healthcare Insurance Company has been a licensed insurer, providing health care benefits to the people of Hawaii for many years. Evercare, by United Healthcare, serves the frail, disabled and aged and those with chronic conditions across the country through contracts with the Centers for Medicare and Medicaid Services (CMS) and State Medicaid agencies. Evercare is one of two health plans selected by the Department of Human Services (DHS) through a competitive procurement process to provide services to Hawaii's aged, blind and disabled population under the State's new QUEST Expanded Access (QExA) Program.

**Proposed Amendment to HB 1525 (HB 1525 SD1)**

Evercare is committed to and supports transparency and the disclosure of information in the health care marketplace that helps to improve access and the delivery of affordable, quality health care services for consumers. We support the concept proposed in HB 1525 SD 1 that calls for making information about plan performance available to the public.

To that end, we are interested and committed to working with interested parties to develop an appropriate set of metrics that would be meaningful to Medicaid beneficiaries. We believe that the creation of a DHS led task force charged with studying and making recommendations to the Legislature will ensure a thoughtful and comprehensive approach to the development of metrics that are meaningful to the public and the state as a purchaser of health care services.

Sincerely,

David Heywood  
Executive Director, Evercare Hawaii