

LATE

HB 1525

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

REVISED TESTIMONY

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

LATE

April 6, 2009

MEMORANDUM

TO: Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 1525, H.D. 1, S.D. 1 – RELATING TO MEDICAID**

Hearing: Monday April 6, 2009, 9:30 am
Conference Room 211, 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, decreased value for Hawaii tax payers, and the risk of decreased federal funding to the State.

The preamble to this bill transparently communicates its anti-for-profit intent and bias, and it makes no attempt to mention the numerous non-profits that have had Medicaid contracts in other states and subsequently collapsed. All health plans, independent of profit status, and any contractor for that matter, are at risk of failing to fulfill the terms of their contracts with the State.

DHS has followed and continues to follow State procurement rules by awarding contracts to the entities with the best proposals. DHS has done nothing different with regard to the QUEST Expanded Access (QExA) contracts in its consistent effort to provide the highest quality care to its clients and greatest value to Hawaii tax payers. DHS contracts with health plans stipulate how much of the payment to the contractor must be spent on direct patient services, and this amount does not differ based on profit status.

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, another clear indication that this bill is intended to serve special interests over patient interests. Nowhere in the proposed reporting requirements are health outcomes even mentioned.

If we are to believe that the purpose of 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, does the Legislature truly believe that health plan profit status is what these vulnerable people would care about instead of their health status and ability to receive necessary care in a timely and appropriate manner?

What's most important is that entities with State contracts fulfill the terms of those contracts. DHS imposes numerous requirements in its health plan contracts 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 in this bill demonstrate this latent objective and inherent bias.

This bill makes the assumption that only non-profit entities constitute the safety-net for our needy DHS clients. This is patently false. In fact, in our Medicaid program, most nursing care Medicaid clients receive care from for-profit nursing homes, an important component of 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.

This bill is unclear and seems to possibly combine procurement and monitoring aspects regarding health plan reporting compliance in order to be eligible for a contract. Some disclosure may be intended to be part of the procurement process, while other reporting may be intended to be part of contract oversight. This is not at all clear in this bill.

We support transparency in procurement and believe that non-proprietary content of proposals received should be publicly available as well as the proposal scoring. Financial information is required as part of the proposal and for publicly traded companies is already in the public domain; we believe such information for non-profits should also be in the public domain.

Financial information is already required as part of the proposal. The request for proposal also specifies what services must be provided locally.

To increase transparency of monitoring 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 health plans. We believe it is important to account that the payments intended to go to direct patient services did indeed do so and which we already do.

We believe that the State should closely monitor that which it has control over or responsibility for and which impacts its clients. Following these principles, DHS believes that the reporting requirements should be limited to the health plan operations in Hawaii that affect the service provided to the enrollees and that the other categories listed in Section 2 (2) of this bill should be deleted because they serve a political agenda and do not benefit the clients or tax payers.

DHS strongly supports meaningful transparency as a critical component of oversight for the purposes of improving health outcomes for our clients and value for our tax payers. This bill not only achieves neither, it makes them worse by communicating that our clients and their health outcomes are not important and creating onerous and unrelated barriers to competition.

Decreased competition could decrease quality of care for our clients and increase cost to tax payers. An anti-for-profit atmosphere could also result in for-profits not seeking State contracts, in which case the State would lose tens of millions in tax revenue, of which more than half would be new Federal funding to the State.

Thank you for the opportunity to comment on this bill.

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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, decreased value for Hawaii tax payers, and the risk of decreased federal Funding to the State.

The preamble to this bill transparently communicates its anti-for-profit intent and bias, and it makes no attempt to mention the numerous non-profits that have had Medicaid contracts and subsequently collapsed. All health plans, independent of profit status, and any contractor for that matter, is at risk of failing to fulfill the terms of their contracts with the State.

DHS has followed and continues to follow State procurement rules by awarding contracts to the entities with the best proposals. DHS has done nothing different with regard to the QUEST Expanded Access (QExA) contracts in its consistent effort to provide the highest quality care to its clients and greatest value to Hawaii tax payers. DHS contracts with health plans stipulate how much of the payment to the contractor must be spent on direct patient services, and this amount does not differ based on profit status.

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, another clear indication that this bill is intended to serve special interests over patient interests. 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.

This bill seems to unclearly combine aspects of procurement and of monitoring. The bill creates a Catch-22 by requiring that contracts be awarded only to health plans that have met certain monitoring requirements. In effect, this bill would not allow any new health plan to contract with the State.

We support transparency in procurement and believe that non-proprietary content of proposals received should be publicly available as well as the proposal scoring. Financial information is required as part of the proposal and for publicly traded companies is already in the public domain; we believe such information for non-profits should also in the public domain. The request for proposal already specifies what services must be provided locally.

To increase transparency of monitoring 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, which we already do.

We believe that the State should indeed monitor that which it has control over or responsibility for and that which impacts its clients. Following these principles, DHS believes that the reporting requirements should be limited to the health plan operations in Hawaii and that requirements (2) (D), (E), and (H) should be deleted because they serve a political agenda and do not benefit the clients or tax payers.

DHS strongly supports meaningful transparency as a critical component of oversight for the purposes of improving health outcomes for our clients and value for our tax payers. This bill not only achieves neither, it makes them worse by communicating that our clients and their health outcomes are not important and creating onerous and unrelated barriers to competition that will increase cost to the State.

Thank you for the opportunity to comment on this bill.



April 6, 2009

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON WAYS AND MEANS
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

DATE: Monday April 6, 2009
TIME: 9:30 a.m.
PLACE: Conference Room 211
State Capitol
415 South Beretania Street

HB 1525, HD1
RELATING TO MEDICAID

Good morning Chair Kim and members of this committee:

We are Rev. Bob Nakata, President FACE, Oahu and Rev Sam Domingo, Chair, FACE Healthcare Committee and FACE is in support this bill. FACE request that the effective date be changed July 1, 2009.

FACE feels that any insurance company that receives government funding for Medicaid should have complete and full transparency of their business practices and administrative cost of business.

Health Insurance that is provided through taxpayers dollars should be held to a higher standard of business (both locally and nationally), history of quality of the delivery of healthcare and their track record of proper, prompt reimbursement to physicians, pharmacies, hospitals, and other providers.

Please pass this bill with the changed effective date of July 1, 2009.

Faith Action for



Community Equity

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