

SB 1095

Faith Action for



Community Equity

Gamaliel Foundation Affiliate

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Oahu Vice President, Clergy

Dr. Clementina Ceria-Ulep
Oahu Vice President, Laity

Dr. Kathy Jaycox
Oahu Secretary

Ms. Emily Militoni
Oahu Assistant Secretary

Mr. Rosario Baniaga
Oahu Treasurer

Mr. Drew Astolfi
Executive Director

Mr. Patrick Zukemura
Oahu Lead Organizer

February 17, 2009

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

NOTICE OF HEARING
SB 1095 RELATING TO MEDICAID

DATE: Tuesday, February 17, 2009
TIME: 1:45pm
PLACE: Conference Room 016
State Capitol

Chairs Chun-Oakland and Taniguchi and members of these committees:

I am Rev. Bob Nakata, President of Faith Action for Community Equity, (FACE, OAHU). I am speaking in strong support of SB 1095, whose purpose is to limit DHS Medicaid Health Insurance contracts to non-profit entities. *FACE acknowledges that the recent QExA contract to two for-profit entities is finalized and is in the implementation stages. FACE believes that the entire community must now work together to assure that the transition is a success and that prompt, quality and equitable continuity of care is provided to our 40,000 plus ABD population. However, FACE continues to believe that healthcare provided with public funding, MUST have legal transparency be it a for-profit or a non-profit and this bill will allow continuing discussions on achieving transparency of our public funds.*

We strongly believe that health insurance, especially for taxpayers funded health care programs like Medicaid, should be covered only by non-profit HMO entities that are licensed in Hawaii, not by for-profit insurers. To insert stockholders whose prime motivation is profit, between doctor and patient, is to invite abuses on eligibility, claims and speed of reimbursements. These are ways by which profits can be increased at the expense of the deliver of health care to the patient.

For profit businesses can also hide their practices from public scrutiny because of proprietary interest. Non-profits are required to be transparent, meaning that the compensation of their officers and employees are public record, as are their business practices.

The obvious advantages of non-profits are that they do not pay taxes, or dividends to stockholders, and are not profit making.

FACE had its eyes opened wide to the potential abuses by for-profit health insurers during discussions on the Quest Extended Access (QExA) for the aged, blind and disabled, that is being implemented by the State of Hawaii, Department of Human Services this week. The insertion of stockholders between doctors and the most vulnerable of patients and their loved ones is much like having the fox guard the hen house. The stockholder representative becomes the gatekeeper determining who is eligible, what claims are eligible, and how fast and at what levels of reimbursements are acceptable.

A prime example of this is the two for-profit insurers contracted for QExA have been sued in 37 states, have been or are being investigated by 37 States and agencies of the Federal governments for these very issues. Their behavior shows a willingness to pay fines and make what appear to be cosmetic changes, but to continue the abusive behavior. Very recently, one of them, United Health Care, was fined over \$300 million, which seems huge, until placed in the context of \$8 billion in profits in 2007, and revenues of \$75 billion that year. (This is information from an article of the Dallas Morning News describing UHC's track record in Texas). \$300 million is less than 5% of \$8 billion, so that fine was merely a slap on the wrist. Its CEO has \$1.6 billion in stock options, more than enough to buyout HMSA by himself. UHC is also 47 times larger than HMSA.

UHC recently walked out of Ohio because it was not making enough profit. The Hawaii ABD or QExA contract limits it to 3% profit. There overall 2007 profit margin was over 10%. How long will they remain in Hawaii at a 3% profit? The possibility is there that it could destroy HMSA and Hawaii's other non-profit insurers (Hawaii's health insurance is over 90% non-profits) and then ratchet up premiums, causing havoc in Hawaii 4th largest industry.

UHC is a mainland based entity of immense size. How can Hawaii expect to have any control over its behavior? Where is the transparency? A recent example of government attempting to create transparency in one of our two gasoline refiners was a failure. These two for-profits (an oligopoly, which is what we have here) fought any attempt to create laws for transparency which would show profits, cost of doing business and how much it cost to produce gasoline for out people.

The for-profit model which delivers its profits and dividends to its stockholders is especially amoral in light of it being derived 100% from tax dollars from the people of Hawaii.

Hawaii must keep at least government, real taxpayer supported healthcare in the hands of Hawaii's licensed, non-profit HMOs.

Please pass this bill. It will allow for continued discussions on creating transparency of health insurers using public funds, be it for-profit or non-profit, to will give the public insight and oversight in the spending of public funds.

Faith Action for



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February 17, 2009

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair
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COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

NOTICE OF HEARING
SB 1095 RELATING TO MEDICAID

DATE: Tuesday, February 17, 2009
TIME: 1:45pm
PLACE: Conference Room 016
State Capitol

Chairs Chun-Oakland and Taniguchi and members of these committees:

I am Rev. Sam Domingo. I am the Chair of the FACE (Faith Action for Community Equity) Healthcare Committee. Our committee supports this measure.

Our State has a history of providing care and other human services through the non-profit model. This has worked well in Hawaii as an isolated, self-contained island state for decades. *FACE acknowledges that the QExA contract is finalized and is in the implementation stages and all of us must work together to insure that the transition and services are delivered to our now 40,000 plus ABD population.*

The benefits of our non-profit networks are numerous. Some of them are:

- Non-profits continue to operate when profits dwindle because they are dedicated to their mission rather than profit and they can survive on smaller margins. This provides important stability for Hawaii's Medicaid population, which is comprised of some of Hawaii's most medically fragile and vulnerable.
- Non-profits put their proceeds back into the Hawaii community for improving or expanding healthcare services or supporting charities. This is an important benefit given Hawaii's shrinking budget due to our economic crisis.

- Healthy competition exists amongst Hawaii's non-profit health plans, insuring that taxpayers are getting the most benefit for their taxpayer dollars.
- By contracting with non-profits, government insures that tax supported healthcare resources will be used for public purposes rather than shareholder profits.
- All of Hawaii's non-profit health plans provide good jobs to Hawaii residents and are an important part of Hawaii's economy. They are not underwriting infrastructure in another state or a foreign country as a for-profit might.
- The State of Hawaii has more regulatory and investigatory authority over nonprofits, which helps to control the opportunity for abuse.
- Non-profits are restricted from lobbying so there are no questions about contracts awarded based on political contributions.
- In contrast, the disadvantages of For-profit Organizations are:
- For-profit companies are interested in a market so long as it produces profits. Hawaii has experienced over and over again, for-profit insurance companies that leave when profits dwindle.
- For-profit companies are obligated to stockholders who expect a return on their investment.

Hawaii's Medicaid program expects providers to sacrifice profits in order to serve needy Medicaid enrollees. To continue to ask providers to make these sacrifices while the program contracting with for-profit entities that enjoy profits, wears on provider generosity.

We request that you pass this bill so that we may continue to discuss the differences in non-profit and for-profit entities and the social and financial impacts on the people of Hawaii. *Through these discussions, FACE is confident that the for-profit awardees of the QExA contract will become good corporate citizens of our Island State and they too will come to understand our commitment to our most needy, especially in the delivery of healthcare.*



Hawai'i Primary Care Association

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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 & Government Operations
The Hon. Brian T. Taniguchi, Chair
The Hon. Dwight Y. Takamine, Vice Chair

Testimony in Support of Senate Bill 1095
Relating to Medicaid
Submitted by Beth Giesting, CEO
February 17, 2009, 1:45 p.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.

UNITE HERE!

LOCAL 5 HAWAII

Eric Gill, Financial Secretary-Treasurer

Hernando Ramos Tan, President

Godfrey Maeshiro, Senior Vice-President

Friday, February 13, 2009

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Vice Chair
Senate Committee on Human Services

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

Testimony regarding SB 1095; *relating to Medicaid*

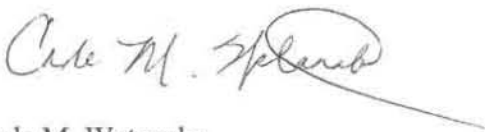
Chair Chun Oakland, Chair Taniguchi, members of the Senate Committees on Human Services and the Judiciary:

I submit this testimony on behalf of UNITE HERE! Local 5 – a local labor organization representing more than 11,000 hotel and health care workers throughout our State.

Senate Bill 1095 would require the Department of Human Services to award Medicaid contracts to nonprofit insurance entities only. UNITE HERE! Local 5 fully supports the intent of this legislation.

Thank you for the opportunity to testify.

Sincerely,



Cade M. Watanabe
Community/Political Organizer

Committee on Human Services and
Committee on Judiciary and Government Relations
Testimony in Support of SB 1095: Relating to Medicaid
Submitted By: Richard Bettini, Chief Executive Officer
Waianae Coast Comprehensive Health Center
Contact: wcchc@wcchc.com or 697-3457

We urgently request approval of SB 1095.

While market forces and business incentives appropriately drive our economy, they simply do not work when structuring health care for lower income communities or patients.

We do not take issue that Hawaii should be attracting new for-profit businesses to our State. For-profits operating under normal market conditions help with capital formation and cost reduction through increased competition. Unfortunately, these market forces do not apply to Medicaid Managed Care. Capital formation is not an issue in Medicaid Managed Care as the capital outlay comes from State and Federal governments. The main capital outlay for managed care agencies is data systems primarily limited to claims processing and database functions. Health information and claims processing systems are, for the most part, scaleable and well within the reach of a non-profit managed care contract budget.

In evaluating the relative benefit of using for-profit health plans, one must also consider potential cost containment opportunities and any increased utility these companies provide the health care delivery system. In both cases the characteristics of the patient populations served are important factors.

Plans typically contain costs by purchasing sub-contracted services prudently, controlling referrals between medical providers, monitoring over utilization of hospital, emergency, and specialty services, establishing and managing a drug formulary and establishing aligned incentives throughout the system to improve productivity and performance. Non-profits are equally capable of performing such functions. For-profit plans have also been known to use other tactics to reduce their "medical loss". This includes delaying the payment of claims, narrowly interpreting the scope of services they are contracted to provide, more restrictively authorizing needed referrals and procedures and parking a lot of cash in reserve accounts. States often lose potential utility as any margins are seldom reinvested back into the community.

In most populations, market forces would preclude some of these abuses referenced above. Informed purchasers, concerned about the impact on their household budgets, are motivated to choose a health plan that returns the best experience. Medicaid patients, however, are concerned who their doctor is, not who the plan is. In fact, our experience in Waianae, with 12,000 Medicaid patients, is that patients care less which plan they are assigned to. They want a health care delivery system that is accessible and comprehensive (integrated behavioral health and helping services) and available at a

single point of contact, and a doctor that is culturally sensitive and caring. In the emerging medical home model, it is essential that a payer or financial intermediary work cooperatively with medical homes to share performance data and the management function. For Medicaid patients, such cooperation is best housed in a Non-Profit corporation.

Finally, the abuses that can occur from utilizing for-profit health plans is now represented here in Hawaii in the Department of Human Services QUEST Expanded Access program.

The local non-profit health plan that returns all its margins back to low income communities (\$16 million in the last three years), and has consistently underbid other plans (saving the State millions of dollars), had its bid for QUEST Expanded Access returned unopened due to a politically motivated bid process. **In short, non-profit plans do not make political contributions like the millions of dollars in contributions made by United Health and Wellcare – Hawaii's new QUEST Expanded Access health plans.**

Do not allow another QUEST Expanded Access program to happen in Hawaii - ever again.

Mahalo.



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

February 17, 2009

MEMORANDUM

TO: Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

Honorable Brian T. Taniguchi, Chair
Senate Committee on Judiciary and Government Operations

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 1095 – RELATING TO MEDICAID**

Hearing: Tuesday, February 17, 2009, 1:45 PM
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to require the Department of Human Services to award Medicaid contracts to non-profit insurance entities only.

DEPARTMENT'S POSITION: The Department of Human Services strongly opposes limiting the choice of Med-QUEST program clients and limiting the State's ability to provide those clients with the best health care possible.

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 may be in the best interest of non-profit health plans, but it is not in the best interest of Med-QUEST program clients or the State. Limiting potential bidders decreases competition. That competition works to improve quality and decrease costs. This bill could have the impact of clients' receiving lower quality care while costing the State more. In addition, taxes paid by for-profits generate substantial additional revenue for the State to provide increased services to its residents.

Another impact on Med-QUEST program clients would be reducing their ability to receive optimal care coordination. This bill is discriminatory against the Medicaid population age 65 and older, blind and/or disabled who are also Medicare beneficiaries (i.e. dual eligible persons aka "duals"). The Federal government allows Medicare Advantage (MA) plans are offered by both for-profit and non-profit health insurers, and duals benefit most by having their Medicaid and Medicare insurance through the same insurer. If Med-QUEST could not contract with for-profit insurers, then the duals who choose a for-profit MA plan could not receive the benefit of care coordination.

Additionally, the Department of Human Services has numerous contracts including fiscal agent, prescription benefit manager, and many providers including case management agencies servicing our waiver clients who are not non-profit insurance companies. This bill would result in the loss of contracts to many small businesses; people would lose jobs and small businesses might go out of business.

The Department of Human Services believes in fair competition in order to provide the greatest value in terms of quality and cost to our clients and to the State. This bill benefits a few select large businesses at the expense of small businesses, the vulnerable clients served by Med-QUEST programs, and Hawaii taxpayers.

Thank you for the opportunity to comment on this bill.

LINDA LINGLE
GOVERNOR



PROCUREMENT POLICY BOARD
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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEES
ON
HUMAN SERVICES
AND
JUDICIARY AND GOVERNMENT OPERATIONS

February 17, 2009

1:45 PM

SB 1095

RELATING TO MEDICAID.

Chair Chun-Oakland, Chair Taniguchi, Vice-Chair Ihara, Vice-Chair Takamine and committee members, thank you for the opportunity to testify on SB 1095. This bill requires the department of human services to award Medicaid contracts to nonprofit insurance entities only.

The State Procurement Office does not support this bill. As a public entity, the state must maintain open, fair and equitable treatment of all providers who deal with the procurement processes of the state, maximize the purchasing value of public funds, and foster broad-based competition within the free enterprise system. HRS Chapter 103F applies to all state agencies, and should not place restrictions on a specific procurement for one agency. If there is justification for this particular procurement to be restricted to non-profit organizations, it should be addressed in the competitive request for proposals document, or if it has a broader application, in the Medicaid administrative rules.

Thank you.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

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LAWRENCE M. REIFURTH
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RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON HUMAN SERVICES AND
JUDICIARY AND GOVERNMENT OPERATIONS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Tuesday, February 17, 2009
1:45 p.m.

TESTIMONY ON SENATE BILL NO. 1095 – RELATING TO MEDICAID.

TO THE HONORABLE SUZANNE CHUN OAKLAND AND BRIAN T. TANIGUCHI,
CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),
testifying on behalf of the Department of Commerce and Consumer Affairs
(“Department”). The Department opposes this bill.

The Department believes that there should be a level playing field for insurance
companies in Hawaii. We would be concerned with any bill that created a special
franchise from some insurers over others because it interferes with the kind of free and
open competition that can benefit consumers.

Both for-profit insurers and not-for-profit insurers have engaged in bad acts at
various times. It is important to have healthy competition in all types of business and for
health insurance that includes a mix of both for-profit and not-for-profit companies.
Appropriate due diligence in the procurement process can screen out insurers with a
proven record of problems.

We thank this Committee for the opportunity to present testimony on this matter
and ask that this bill be held.

TO THE HAWAII STATE SENATE

COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

NOTICE OF HEARING

S.B. 1095 – Relating to Medicaid

DATE: Tuesday, February 17, 2009
TIME: 1:45pm
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

**TESTIMONY OF ERHARDT. H. PREITAUER, EXECUTIVE DIRECTOR OF
'OHANA HEALTH PLAN, RESPECTFULLY OPPOSING S.B. 1095**

TO THE HONORABLE SUZANNE CHUN OAKLAND, THE HONORABLE LES IHARA, JR., THE HONORABLE BRIAN TANIGUCHI, THE HONORABLE DWIGHT TAKAMINE, AND MEMBERS OF THE COMMITTEES ON HUMAN SERVICES AND JUDICIARY AND GOVERNMENT OPERATIONS:

Thank you for the opportunity to testify respectfully opposing S.B. 1095. My name is Erhardt H. Preitauer, and I am the Executive Director of 'Ohana Health Plan, a for-profit health plan serving the QUEST Expanded Access program. The QUEST Expanded Access program serves over 38,000 of Hawaii's most vulnerable residents; low income seniors and persons with disabilities. Over 21,000 of these residents are a part of 'Ohana Health Plan, and I am happy to report that we went live on February 1, 2009 after one year of implementation and millions of dollars of investment in Hawaii. This is a critical program for our kupuna and kama'aina with disabilities.

There are two points that I would like to focus on today. First, I would like to talk about the practical nature of this bill and how it would have affected this

very important program had the bill been in effect over the last year. Next, and perhaps most importantly, I would like to talk about making healthcare better for Hawaii's citizens that need it most.

As you know, there were five health plans that submitted bids to serve the QUEST Expanded Access program. Of these five plans, only three of them had enough demonstrated experience and success serving similar populations to qualify. All three of these qualifying plans were for-profit. Thus, if this bill had been in effect one year ago, there would not have been an opportunity to bring qualified, experienced organizations to serve this vulnerable population. I would venture to guess that if the qualification and experience standards were reduced to allow the lone non-profit bidder to have won the bid, Hawaii would have been left with only one, unqualified health plan serving the QUEST Expanded Access population. This would not be good for our citizens of Hawaii.

Finally, I respectfully ask that we, as a collective group, focus our efforts on one thing: making healthcare better for Hawaii's seniors and persons with disabilities. For me, the relevant question is, "who can provide the best care for the people of Hawaii?" To answer this, I believe we must ask *further* questions. For instance, "Who will provide the most transparency into how the state's money is spent? Who has the resources to assemble and train a highly qualified *local* team? Who has the proven capabilities in caring for similar members? Who has the experience to effectively bring together medical, behavioral, and social services?" I would argue that for-profit companies are highly transparent. We have hired over 120 *local* staff, many of which come directly from serving Hawaii's low income seniors or people with disabilities. Our parent company, WellCare, allows us to bring the power and capabilities of serving over 2 million members. We have invested tens of millions of dollars into state of the art systems and tools. I would argue that **we** have the capability to provide the best care for the people of Hawaii.

To summarize, this bill would have effectively destroyed this program had the bill been enacted a year ago – simply because there were not enough qualified non-profit health plans willing to bid. And finally, I would argue that we

have the experience, resources, sensitivity, and the focus to make healthcare better for Hawaii.

Thank you for the opportunity to testify in support of for-profit health plans today.

Evercare, A UnitedHealth Group Company
Testimony on 1525

Testifier's name with position/title and organization;	David Heywood Executive Director, Evercare Hawaii
The Committee the comments are directed to;	Committee on Human Services Committee on Judiciary and Government Operations
The date and time of the hearing;	February 17, 2009, 1:45pm
Measure number	SB 1095
The number of copies the Committee is requesting.	



February 13, 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: SB 1095- 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 SB 1095. 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.

Evercare has a very strong local team who understands Hawaii's health care system and its Medicaid and Medicare population. The members of my staff, including myself, have many years of experience working for local health plans and health care providers here in Hawaii. We have partnered with MDX Hawaii (formerly Queen's Health Plans), to serve our Medicaid and Medicare members. For the QExA program, Evercare with MDX has hired over 100 new employees on Oahu, Maui, Kauai and the Big Island.

Evercare is opposed to SB 1095 which would require DHS to solicit proposals from and award Medicaid contracts only to non-profit insurance entities. We do not support SB 1095 for the following reasons:

Open Competition Best Serves Consumers, Government, Taxpayers and the Community

Open competition in healthcare insurance programs improves access, quality, innovation and value. This is true not only for Medicaid programs, but also for Medicare, employer group coverage and individual plans. Restricting competition to only non-profit entities prevents fully qualified and capable entities from competing for contracts, even though they may be able to provide better quality and value to the State and to the community.

Moreover, there is no evidence that correlates tax status with quality. For example, only one non-profit insurance entity submitted a proposal in response to DHS's recent Request for Proposals for the Quest Expanded Access (QExA) program for aged, blind and disabled beneficiaries and

this proposal from a non-profit insurance entity was deemed to be deficient. The two largest non-profit health plans in Hawaii did not even submit proposals. Therefore, if passed, SB 1095 could have the unintended consequence of actually lowering quality, reducing choice, and increasing costs to the State for the Medicaid program.

State Already Has a Mechanism in Place to Protect Consumers and Providers

Second, SB 1095 is unnecessary to protect the state from unethical or criminal contractors. The state already has in place proper contract award processes and procedures that would eliminate any offerors who have engaged in misconduct, regardless of for-profit or not-for-profit status. The QExA request for proposal required a very comprehensive response from the applicants, including 14 separate categories of technical requirements. It was a rigorous process, and the best proposals by responsible offerors emerged.

In addition, Medicaid health plans are highly regulated by the State of Hawaii and the Federal Government to ensure health plan responsibility and performance. DHS has a comprehensive regulatory and quality oversight framework in place to monitor and report on Medicaid health plan performance, program outcomes and adherence to DHS contract requirements as well as federal Medicaid requirements. It is also important to note that through Medicaid's a federal and state partnership, the Centers for Medicare and Medicaid Services (CMS) offers another layer of quality oversight for QUEST and QExA Medicaid managed care programs in Hawaii.

Continuity of Care for Consumers

Third, SB 1095 has the potential to disrupt services and continuity of care for Medicaid consumers served by for-profit providers in the state as well as for-profit insurance entities Quest Expanded Access and QUEST health plans today. Under SB 1095, current for-profit Medicaid providers, vendors and health plans would be prohibited from participating in any new Medicaid procurements and re-procurements for current contracts. We maintain that if the current QUEST and QExA plans perform well and meet DHS's procurement requirements, consumers should be afforded this option to maintain continuity of care. SB 1095 eliminates this option for consumers.

In summary, for-profit health plans have accomplished well documented positive outcomes in managed Medicaid and long term care programs in many other States. If plans perform well relative to outcomes important to purchasers and consumers, these outcomes, not tax status, should be the criteria the State employs to select health plans to serve the Medicaid population.

Evercare and Ohana health plan have each hired more than 100 local people to work on the new QExA initiative. As proposed, SB 1095 would prohibit both plans from participating in the re-procurement of the QExA program when it comes up for re-bid. The result is over 200 local employees would be out of work regardless of whether or not the current QExA plans have been providing the highest quality care for Hawaii's kapuna, disabled and medically fragile children.

It is for these reasons we are opposed to SB 1095. Thank you for hearing our testimony.

Sincerely,



David Heywood
Executive Director, Evercare Hawaii
david_w_heywood@uhc.com



February 16, 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

Re: SB 1095 - Requiring 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 SB 1095. I am Rick Jackson, Chief Operating Officer of MDX Hawai'i, a local for-profit third party administrator of health benefit plans. We have two (2) local clients that have been customers of our company for 20 years: The Queen's Health Systems and United Healthcare.

MDX Hawai'i has had a business relationship with United Healthcare and its predecessor companies in Hawai'i for the past 20 years, beginning with Travelers Insurance in 1989. Currently, we are contracted to support a number of United's Hawai'i insurance programs, including commercial insurance administration for local employers such as AT&T, Hawaiian Telcom, Home Depot and IBM. We also help administer United's Medicare plans offered under the AARP, SecureHorizons and Evercare brand names. Finally, we are part of the team that is supporting start-up of the Evercare QUEST Expanded Access (QExA) program which began operations on February 1, 2009.

MDX Hawai'i is opposed to SB 1095 which would require DHS to solicit proposals from and award Medicaid contracts only to non-profit insurance entities. We do not support HB 1095 for the following reasons:

1. If the legislation under discussion today had been in force in 2008, there would be no QUEST Expanded Access Program in place today.

Discussion

The RFP terms and conditions for the QExA program were discussed and debated in local community meetings for over 10 years prior to the award in February 2008 of two (2) contracts, one to Wellcare, the other to Evercare. Only one of the five (5) bidders for QExA

was not-for-profit; no other local not-for-profit companies submitted a bid. AlohaCare's bid was deemed not to have met the technical requirements of the RFP to understand and deliver a successful, medically integrated program for Hawai'i's aged, blind and disabled. Currently, only the for-profit sector has the required experience and expertise necessary to run such programs in Hawai'i.

2. If the legislation under discussion today is in force in 2011, there may be no qualified non-profit QUEST Expanded Access Program bidders in place to take over from Wellcare and Evercare, and the QExA program will be disbanded at the end of its first three years.

Discussion

Under the terms of the CMS waiver, there need to be two (2) technically qualified plans offered so that QExA beneficiaries are offered a choice of health plans; otherwise, the waiver CMS waiver will be withdrawn. There were no such bids from local non-profits in 2007-8. Under the terms of the proposed legislation, neither Wellcare nor Evercare can compete for follow-on contracts. So, without at least two qualified, competent for-profit company's bids in 2011, QExA may not be able to continue delivering services.

3. The economic performance of the two for-profit companies delivering QExA services may permit significant gain sharing with local providers before the end of the initial QExA contract period. This is a good, local-style, win-win situation that happens regardless of profit status.

Discussion

QExA profit is capped at three (3) percent and, by the way, there is no theoretical "maximum loss". Both Wellcare and Evercare are hopeful, but not certain, of reaching the profitability during the initial contract. If this happens, both companies have every reason and incentive to share a significant portion of any savings above the 3% cap with their contracted provider networks. Neither company can make an excess profit.

4. Amending the state procurement code, which is currently even-handed with respect to for-profit and not-for-profit competition for State contracts, to favor non-profits is a bad precedent.

Discussion

No state in this country forbids for-profit health care companies from competing for state health care contracts. One of the reasons is that competition improves the quality of the resulting service delivery and lowers the cost. In addition, if the logic of this bill is extended to require all QUEST health care services to be non-profit, such as physicians, hospitals, laboratories and durable medical equipment, Hawaii would not have a viable health care delivery system to deliver care to any QUEST patients.

5. Finally, if this bill is passed, in three years my company will be required to lay off over forty (40) full time employees who have been hired specifically for the QExA program.



EXCELLENCE IN HEALTHCARE INFORMATION TECHNOLOGY

In summary, it is difficult for MDX Hawai'i to see any public benefit to limiting competition for DHS QUEST contracts to the non-profit sector, and we see significant downside risks for the community if this legislation is enacted.

Thank you for the opportunity to submit testimony.

Best regards,

A handwritten signature in cursive script, appearing to read "Rick Jackson".

Rick Jackson
Chief Operating Officer

TESTIMONY
from the
Hawaii State Council on Developmental Disabilities

Testifier's Name: Waynette Cabral

Position Title: Executive Administrator

Organization: Hawaii State Council on Developmental Disabilities

Day, Date, and Time of Hearing: Tuesday, February 17, 2009, 1:45 pm, Rm. 016

Measure Number: SB 1095 – RELATING TO MEDICAID

Name of Committee(s): Senate Human Services and Judiciary and Government Operations (HMS/JGO)

Number of copies the Committee is requesting: 1 copy to Committee Clerk

Room Number: 226

E-mailed to: HMSTestimony@Capitol.hawaii.gov



STATE OF HAWAII
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ON DEVELOPMENTAL DISABILITIES
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February 17, 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: SB 1095 – 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 offers the following comments on SB 1095. The purpose of the bill is to require all future Medicaid procurement contracts to be awarded only to qualified nonprofit entities.

The Council is concerned with the proposed language to be added as a new section to Chapter 103F, Hawaii Revised Statutes. On page 2, lines 2 through 5, it states, "For the procurement of all medicaid contracts in the State, the department of human services shall solicit proposals only from nonprofit insurance entities and award contracts only to nonprofit insurance entities."

The language as written seems too broad and could be interpreted to 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
3. Medically Fragile Community Care Program
4. Nursing Home Without Walls
5. Residential Alternatives Community Care Program

The Honorable Suzann Chun Oakland
The Honorable Brian T. Taniguchi
Page 2
February 17, 2009

Although Section 1 of the bill specifically refers to the QUEST Expanded Access (QExA) for the aged, blind and disabled population, Section 2 addresses all Medicaid contracts in the State. If it is interpreted and implemented to apply to all Medicaid contracts, then only nonprofit insurance entities may be awarded contracts that could include the above Medicaid waiver programs. For the DD/MR waiver program, this provision would affect over 50 nonprofit and for-profit service provider agencies that have contracts with DHS. An unintended consequence would be that this bill would penalize all nonprofit and for-profit entities that provide quality services and are in good standing with the State. Furthermore, we don't consider that nonprofit or for-profit status equates to quality of care.

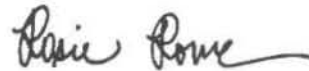
If it is the Legislature's intent to single out the QExA program to limit awards of contracts to only nonprofit insurance entities, then there should be language to state it. We defer to the State Procurement Office on the legality of that procurement process. Passage of this bill will amend the competitive bid process under Chapter 103F and may not assure that the procurement process addresses fairness, efficiency, effectiveness, and accountability.

The Council appreciates the opportunity to present comments on SB 1095.

Sincerely,



Waynette K.Y. Cabral
Executive Administrator



Rosie Rowe
Chair