SB 166

LINDA LINGLE
GOVERNOR

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

February 23, 2009

MEMORANDUM

TO: Honorable David Y. Ige, Chair
Senate Committee on Health

Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 166 – RELATING TO INSURANCE**

Hearing: Monday, February 23, 2009, 3:00 PM.
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to require health insurance providers to provide parity of coverage for oral and intravenous chemotherapy.

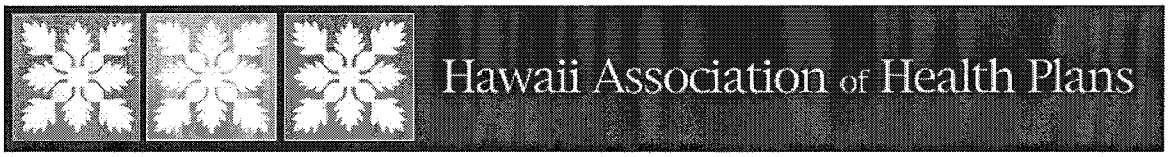
DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent of bill S.B.166 that would require health insurance providers to provide parity of coverage for oral and intravenous chemotherapy.

DHS agrees that all insurance policies that include benefits for cancer treatment should provide reimbursement for cancer therapies, regardless of the route that chemotherapy drugs are administered. Oral drugs should be covered in the same manner as intravenous drugs for the treatment of cancer patients, regardless of the presence or type of prescription drug plan cancer patients may have under the insurance policy.

It should be considered, however, that oral chemotherapy medications may be different from intravenous medications in that they may be self-administered as a long-term medication (for example, several years of tamoxifen or aromatase inhibitors for neoadjuvant endocrine therapy for estrogen receptor positive breast cancer in certain patients). The same conditions and payment rates for IV chemotherapy may not apply to some of these oral medications; nevertheless they should be covered as the IV therapy would be covered.

We continue to believe that coverage should be based on medical necessity and include medications with evidence of effectiveness for the specific indication. We do not believe that the intent of this bill is to require coverage of experimental treatment.

Thank you for the opportunity to testify on this bill.



February 23, 2009

The Honorable David Ige, Chair
The Honorable Rosalyn Baker, Chair

Senate Committees on Health and Commerce and Consumer Protection

Re: SB 166 – Relating to Insurance

Dear Chair Ige, Chair Baker and Members of the Committees:

My name is Rick Jackson and I am President of the Hawaii Association of Health Plans ("HAHP"). HAHP is a non-profit organization consisting of seven (7) member organizations:

AlohaCare
Hawaii Medical Assurance Association
HMSA
Hawaii-Western Management Group, Inc.
MDX Hawai'i
University Health Alliance
UnitedHealthcare

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

Thank you for the opportunity to testify on SB 166, which would require health plans to provide coverage for oral chemotherapy under the same terms and rates as provided for intravenous chemotherapry. For the record, all HAHP commercial health plans offer such coverage through their pharmacy benefits riders, and for that reason the oral chemotherapy drugs are not included in the medical benefit plan. Pharmacy rider coverage is extended to virtually every covered commercial member. HAHP strongly prefers to avoid "hard coding" pharmacy benefits in commercial medical plans, and opposes this measure.

HAHP recognizes that legislative health mandates are often driven by the desire for improved health care services to the community; as health plans, our member organizations are committed to the same ideal. In general, however, HAHP member organizations oppose legislative health mandates as inefficient mechanisms for health care improvement for three (3) reasons:

1. Mandates, by their basic nature, increase health care costs for employers and employees.

2. We believe employers should have the right to, working with their health plan, define the benefit package they offer to their employees. Mandates misallocate scarce resources by requiring consumers (and their employers) to spend available funds on benefits that they would otherwise not choose to purchase.

3. Mandates impose static clinical procedures which can fail to promote evidence-based medicine, defined as the daily practice of medicine based on the highest level of available evidence determined through scientific study. Evidence-based medicine promotes high quality care. Unfortunately, even when a mandate promotes evidence-based medicine when adopted, the mandate does not timely change to reflect medical advances, new medical technology, or other new developments. Mandates can become obsolete or even harmful to patients.

Thank you for the opportunity to testify.

Sincerely,

Rick Jackson
President

MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

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February 19, 2009

Honorable David Y. Ige, Chair
Honorable Josh Green, M.D., Vice Chair
Committee on Health
Honorable Rosalyn H. Baker, Chair
Honorable David Y. Ige, Vice-Chair
Committee on Commerce and Consumer Protection
Senate
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: S.B. No. 166, RELATING TO INSURANCE

Dear Chairs Ige and Baker, Vice Chair Green, and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written testimony with respect to Senate Bill No. 166, relating to insurance which is to be jointly heard by your Committees on Health and on Commerce and Consumer Protection on February 23, 2009.

S.B. No. 166 is intended to provide parity of coverage for oral and intravenous chemotherapy. However, there are certain types of supplementary health insurance for which such mandated parity of benefits would not be appropriate. For example, AFLAC offers a variety of supplementary health insurance policies, including a cancer benefit policy. However, these policies are not intended to pay the entire costs of treatment, but, rather to assist with the costs related to receiving these treatments, and benefits for oral and intravenous treatments are not identical.

While it may be appropriate to require parity of benefits for an insured's primary health insurance policy, which is intended to fully pay or reimburse the insured for the costs of the treatment, such parity is not necessarily appropriate for supplemental policies. Rather, such supplemental policies are intended only to supplement the primary policy by covering certain related costs and, therefore, mandating parity of benefits would be forcing consumers to purchase additional coverage which they may not desire.

For the foregoing reasons, we support the amendment of Section 1 of S.B. No. 166 to delete from its coverage "limited benefit insurance" by adding the following, which is based upon the language currently contained in Hawaii Revised Statutes section 431:10A-121:

> "**§431:10A- Chemotherapy services.** (a) All individual and group accident and health or sickness policies that include coverage or benefits for the treatment of cancer, other than an accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit health insurance policy, shall provide payment or reimbursement for oral chemotherapy drugs under the same terms and conditions and at a rate calculated according to the same methods as payment or reimbursement for intravenously administered chemotherapy drugs."

(Additional language underscored; deletions marked by strikethrough.)

The proposed exception is based upon similar exceptions in mandated coverage for limited benefit health insurance policies. *See, e.g.*, HRS § 431:10A-121 ("Each policy of accident and health or sickness insurance providing coverage for health care, other than an accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit health insurance policy, that is issued or renewed in this State, shall provide coverage for outpatient diabetes self-management training, education, equipment, and supplies . . . ").

Thank you for your consideration of the foregoing.

Very truly yours,

McCORRISTON MILLER MUKAI MacKINNON LLP

Peter J. Hamasaki

PJH:fk

HMSA

Blue Cross Blue Shield of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

LATE

February 23, 2009

The Honorable David Ige, Chair
The Honorable Rosalyn Baker, Chair
Senate Committees on Health and Commerce and Consumer Protection

Re: SB 166 – Relating to Insurance

Dear Chair Ige, Chair Baker and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 166.

HMSA members with prescription drug coverage as part of their health care plan would typically face no barriers to receiving oral chemotherapy for their cancer treatment as opposed to intravenously administered or injected cancer medications. For HMSA members, 96% have plans which include prescription drug coverage. In the rare instances, perhaps two to three cases per year, when an HMSA member has no prescription drug coverage, HMSA's Member Advocacy Department works to assist them.

It is also important to note that changing the current reimbursement structure for these medications could end up requiring HMSA members to pay more out-of-pocket costs. Oral chemotherapy medications can cost as much as $5,000 per month. Currently HMSA provides coverage for oral chemotherapy medications under our prescription drug plan. As such, the member generally pays a $55 or $20 co-payment per month which equates to a maximum of $660 annually. If these medications were included under the medical plan instead, an individual member would end up paying more. For HMSA plans, an individual member's annual maximum out-of-pocket cost is generally $2,000. This means that shifting the drug from being covered by our prescription drug plan would increase our member's out-of-pocket cost from $600 to $2,000.

For the reasons mentioned above, we believe that SB 166 is unnecessary at this time. Thank you for the opportunity to provide testimony today.

Sincerely,

Jennifer Diesman
Assistant Vice President
Government Relations

LATE

February 20, 2009

Committee on Health
Senator David Ige, Chair
Senator Josh Green, MD, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn Baker, Chair
Senator David Ige, Vice Chair

Hearing:
3:00 P.M., Monday, February 23, 2009
Hawaii State Capitol, Room 016

RE: SB166, Relating to Insurance

Testimony in Strong Support

Chairs Ige and Baker, and members of the Committee on Health and the Committee on Commerce and Consumer Protection. My name is George Massengale and I am the Director of Government Relations for the American Cancer Society Hawaii Pacific Inc. Thank you for the opportunity to testify in strong support of SB166, which would require insurance to provide parity of coverage for oral and intravenous chemotherapy.

The American Cancer Society Hawaii Pacific Inc., was founded in 1948, and is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service. This mission is consistent with the Society's ambitious 2015 goals of slashing the cancer mortality rate by 50%, reducing the incidence of cancer by 25%, and improving the quality of life of cancer patients and survivors by reducing the pain and suffering that cancer causes.

***Chemotherapy* is the use of medicines or drugs to treat disease.** Many times this treatment is called just "chemo." **Surgery and *radiation therapy* remove, kill, or damage *cancer* cells in a certain area,** but chemo works throughout the whole body. **Chemo can kill cancer cells that have *metastasized* or spread to parts of the body far away from the primary (original) *tumor*.**

There are more than 100 chemo drugs which are used in many combinations. A single chemo drug can be used to treat cancer. But for the most part, the drugs work better when used in certain combinations. Your chemo treatment will likely include more than one drug. This is called *combination chemotherapy*. A combination of drugs with different actions can work together to kill more cancer cells. It can also reduce the chance that the cancer may become resistant to any one chemo drug.

The primary advantage of oral chemotherapy is that it can be taken at home. People who are given chemotherapy by i.v. infusions often spend up to one week out of every month either in the hospital or traveling to and from the hospital to receive their treatment.

In closing, we would note that we believe that this is a good bill. It accomplishes several purposes. It provides cancer patients with additional chemotherapy options, and offers greater flexibility. It also reduces the out-of-pocket expense associated with cancer treatment, these expenses can add thousands of dollars to the overall cost treatment. Finally, in Hawaii many of our residents must travel from neighbor islands to Honolulu for treatment and spend a night or two.

We believe that SB166 is a win win for everyone, the patient, our health care system, and the health insurance carrier.

In closing, we would point out to the committee, that SB166 may be in conflict HRS 23-51, which requires the State Auditor **"to prepare and submit to the legislature a report that assess both the social and financial effects of the proposed mandate coverage."**

Mahalo for the opportunity to provide testimony in strong support of this measure.

Very truly yours,

George S. Massengale, JD
Director of Government Relations