LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, February 23, 2009
2:15 p.m.

TESTIMONY ON HOUSE BILL NO. 1208, HD1 – RELATING TO DENTAL CARE.

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department takes no position on this bill, but offers comments.

This bill establishes rules for coordination of benefits provisions in dental plans. We believe this bill codifies the general practice in the health insurance industry and therefore may not represent a significant change. We do not know exactly how many people have dual dental coverage, but we suspect that it is not a large number.

Section two of the bill discusses these rules in connection with mutual benefit societies. The bill talks about a "group hospital or medical service plan contract covering dental services". We are not sure that dental coverage is typically offered within a medical plan. It may be more common to offer dental coverage in a separate rider. Therefore some consideration should be given to adjusting this language.

We thank this Committee for the opportunity to present testimony on this matter.

HMSA

Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 23, 2009

The Honorable Robert Herkes, Chair
The Honorable Glenn Wakai, Vice Chair
House Committee on Consumer Protection and Commerce

Re: HB 1208 HD1 – Relating to Dental Care

Dear Chair Herkes, Vice Chair Wakai and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1208 HD1. We believe that HB 1208 HD1 is unnecessary at this time and have concerns with some of the language included in the measure.

HMSA already provides notification on the coordination of benefits to our members who have dental coverage through HMSA. When an individual initially joins HMSA as a member, they receive a document that outlines all the coordination rules which we follow to ensure that members are receiving appropriate coverage. Any changes to this language are mailed directly to the member as an update. Also, HMSA, like the majority of plans in the state, follow the National Association of Insurance Commissioners (NAIC) guidelines relative to establishing the order of benefits between two or more plans as well as fundamental coordination rules.

HMSA is already complying with the language included in HB 1208 HD1 regarding payment of benefits. When a coordination of dental benefits issue comes into play HMSA's dental plan ensures that the total payment for a single claim from all dental plans does not exceed the total charged by the dentist for the services provided and does not exceed the total maximum of the member's plan. This is meant to ensure that providers are not receiving duplicate payments between plans for services rendered.

Additionally, we believe that the existing language in section (e) could have unintended consequences. There is a statement which could end up forcing a secondary dental plan to pay a non-participating provider an amount above the plans' eligible charge. The language in HB 1208 HD1 could award a provider the benefits of participating without having them comply with a plan's contractual requirements.

We would respectfully request some amendments to the measure to ensure that all dental plans are included and to afford consumer protection to individuals visiting a non-participating provider.

- Concerning subsection (c), Sections 1-3, on the information to be provided by the plan on the coordination of dental benefits, we would request that language be changed from being required to being "prominently" declared to allowing plans to make the information available. Currently the coordination of benefits language is quite lengthy and does not apply to the vast majority of our members so rather than include it in our Guide to Benefits (GTB), the GTB contains language stating that the entire policy is available to members upon request. This cuts down on the administrative cost of producing our GTB

which is already quite lengthy. These changes would take place throughout the bill on Page 2, Lines 9-12; Page 4, Lines 12-15 and Page 6, Lines 13-16.

- Lastly, we believe that there could be a potential problem with the language contained in Sections 1-3 (e). The concern with the original language in the bill was that plans considered the secondary plan could end up having to pay more than the eligible charge to non-participating providers than the plan would typically pay since it required the plan to pay the member's total out of pocket cost. In addition we believe that under this, providers could potentially increase out of pocket charges in order to obtain increased payments from the plan. We would request adding the NAIC definition of "allowable expense" throughout the measure to help ensure that plans providing dental benefits would not be forced to pay charges above the eligible benefit of the member. This definition was added throughout the bill on Page 1, Line 9; Page 3, Line 18 and Page 5, Line 19. Additionally, we would also request the language in section (e) be replaced with language incorporating the definition of "allowable expense" on Page 2, Lines 17-21 through Page 3, Lines 1-2; Page 4, Lines 20-22 through Page 5, Lines 1-4; and Page 6, Lines 21-22 through Page 7, Lines 1-5.

While we believe that the requested amendments will meet the intent of the measure, we are currently working with other stakeholders on drafting additional clarifications. Thank you for the opportunity to provide comments today.

Sincerely,

Jennifer Diesman
Assistant Vice President
Government Relations

Hawaii State Legislature
State House of Representatives
Committee on Consumer Protection and Commerce

Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair
Committee on Consumer Protection and Commerce

Monday, February 23, 2009, 2:15 p.m. Room 325
House Bill 1208 HD1 Relating to Dental Care

Honorable Chair Robert N Herkes, Honorable Vice Chair Glenn Wakai, and members of the House Committees on Consumer Protection and Commerce,

My name is Dr. Craig Mason. I am the President-Elect of the Hawaii Dental Association and I appreciate the opportunity to testify in support of HB 1208 HD1 Relating to Dental Care. This bill addresses a problem that has arisen in recent years in the common situation where two spouses each work to earn dental insurance coverage for their families.

In the past, when family members paid two premiums for dental benefit plans, the primary carrier paid their contracted portion and the secondary carrier paid the remaining amount up to the eligible fee they contracted for. In recent years, some insurance carriers have administratively determined that if they are the secondary carrier, and the primary carrier has already paid a benefit for a given procedure, they will deny benefits for that procedure. Hence, the family is paying two premiums and receiving only one benefit.

In some cases, dental insurance companies have recently written this arrangement into contracts with plan purchasers. It does not matter whether this contractual language has been initiated by the insurance company or requested by the plan purchaser. Nor does it matter whether the plan purchaser is purchasing insurance or is self insured with the insurer acting as a third party administrator. However it gets into a contract, we believe this policy should be fully disclosed to both plan purchasers and their employees. The language used should be fully understandable to the plan beneficiaries.

This bill will not be impacted by the participation status of the dentist delivering service. Nor will this bill require any increase in the financial liability of carriers relative to the participation status of the treating dentist.

Other states have recently incorporated similar protections into their statutes to protect consumers.