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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Friday, January 29, 2010
9:30 a.m.

TESTIMONY ON HOUSE BILL NO. 2350 – RELATING TO LIMITED BENEFIT HEALTH INSURANCE.

TO THE HONORABLE RYAN YAMANE, CHAIR, AND MEMBERS OF THE COMMITTEE:

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

The purpose of this bill is to add a new section to Article 10A, Hawaii Revised Statutes (“HRS”) chapter 431, that excludes any new provision enacted after July 1, 2010, from applying to accident-only, specified disease, hospital indemnity, long-term care, or other limited benefit health insurance policies (except Medicare supplement policies), unless the provision expressly states that it is applicable to such policies.

Part III of Article 10A governs Medicare supplement policies. Part I of Article 10A is expressly applicable to Medicare supplement policies, pursuant to HRS § 431:10A-304(b). Due to federal standardization of benefits for Medicare supplement policies, the Insurance Division does not apply the mandated benefit provisions under Part I. Therefore, it may be prudent to add Medicare supplement to the list of limited benefit health insurance policies.

The Department respectfully suggests adding "medicare supplement" to page 1, lines 8 and 12 and deleting the phrase "other than a medicare supplement policy" on page 1, line 9 of the bill such that the section reads:

"§431:10A- Limited benefit health insurance. No provision of this article enacted after July 1, 2010 relating to a policy of accident and health or sickness insurance shall apply to an accident-only, specified disease, hospital indemnity, long-term care, medicare supplement, or other limited benefit health insurance policy, unless the relevant provision expressly states that it applies to an accident-only, specified disease, hospital indemnity, long-term care, medicare supplement, or other limited benefit health insurance policy."

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

MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

January 27, 2010

Honorable Ryan I. Yamane, Chair
Honorable Scott Y. Nishimoto, Vice Chair
Committee on Health
House of Representatives
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: H.B. No. 2350, RELATING TO LIMITED BENEFIT HEALTH INSURANCE

Dear Chair Yamane, Vice Chair Nishimoto, and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written testimony in strong support of H.B. No. 2350, relating to limited benefit health insurance, which is to be heard by your Committee on Health on January 29, 2010.

Supplementary or limited benefit health insurance policies provide consumers with the option of purchasing additional coverage for certain defined risks. For example, a cancer policy may provide a consumer with additional insurance to pay for costs associated with cancer that are not normally covered by a primary health insurance policy, such as travel costs. Other types of supplemental policies include accident-only or hospital indemnity policies, which similarly may provide coverage for out-of-pocket costs, rather than the direct costs of treatment. Limited benefit health insurance policies are generally indemnity-type policies in which the benefits are paid directly to the insured to be used in whatever way the insured decides, rather than as reimbursements to the providers.

Because the nature of limited benefit health insurance policies is fundamentally different from primary health insurance policies, the requirements imposed upon primary health insurance policies can be inappropriate for limited benefit health insurance policies. For example, Hawai'i law mandates that health insurance policies provide coverage for certain diabetes-related training, *etc.* See Hawaii Revised Statutes ("HRS") § 431:10A-121. While this may be an appropriate requirement for a primary policy of health insurance, it would not be appropriate to mandate this benefit for limited benefit health insurance policies. For example, a Hawai'i consumer that purchases a cancer policy has made the choice to insure against certain costs associated with cancer, possibly because of family history or other reasons specific to the consumer. However, if Hawai'i law also requires that the cancer policy include coverage for certain diabetes-related treatments, in effect, the law will force the consumer to purchase additional unwanted coverage at a higher price or, in the worst case, cause the consumer to be unable to purchase the desired cancer policy at all. Moreover, because Hawai'i law already

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requires that the consumer's *primary* health insurance policy cover the diabetes-related treatments, it is duplicative, unnecessary and ultimately wasteful to require that the supplemental policy cover it as well. Similarly, requirements that relate to reimbursement levels should not apply to limited benefit policies, because these policies generally pay benefits to the insured directly and without regard to cost, whereas primary health insurance policies are reimbursement policies in which the benefits are paid to the providers, rather than the insured. (The one exception to the foregoing is a medicare-supplement insurance policy; however, medicare supplement policies are not included in the proposed carve-out for limited benefit health insurance in H.B. No. 2350.)

Although coverage under limited benefit health insurance policies is triggered by accident or health-related occurrences, as discussed above, the nature of these policies is entirely different from primary health insurance policies. HRS chapter 431:10A does not specifically distinguish limited benefit health insurance policies from primary health insurance policies. However, the Hawai'i Legislature has recognized that limited benefit health insurance policies are a different insurance product, as certain provisions of HRS chapter 431:10A specifically exempt 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 . . .").

Each year, the Hawai'i Legislature considers a large number of bills relating to health insurance, including various mandated benefit bills, reimbursement bills, *etc.* Almost without exception, these measures are intended to address issues relating to primary health insurance policies, but may have unintended and undesirable effects if applied to limited benefit health insurance policies. H.B. No. 2350 would help to avoid these unintended consequences, creating a general exception for limited benefit health insurance from HRS chapter 431:10A, so that future laws regulating health insurance policies apply to limited benefit health insurance policies only if these laws specifically state that they are intended to apply to limited benefit health insurance policies.

Similar carve-outs have been enacted in Arizona, California, Georgia, Indiana, Louisiana, Minnesota, North Carolina, North Dakota, Oregon, Texas, Utah and West Virginia.

For the foregoing reasons, we strongly support H.B. No. 2350. However, we also would suggest that term "limited benefit health insurance" also include disability, dental and vision policies as follows:

"§431:10A- Limited benefit health insurance. No provision of this article enacted after

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July 1, 2010 relating to a policy of accident and health or sickness insurance shall apply to an accident-only, specified disease, hospital indemnity, long-term care, disability, dental, vision, or other limited benefit health insurance policy, other than a medicare supplement policy, unless the relevant provision expressly states that it applies to an accident-only, specified disease, hospital indemnity, long-term care, disability, dental, vision, or other limited benefit health insurance policy."

(Additional language underscored.) Adding disability, dental-only and vision-only policies to the carve-out provision would be appropriate because these types of policies also are different in nature from primary health insurance policies.

Thank you for your consideration of the foregoing.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



Peter J. Hamasaki