



REVISED TESTIMONY

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

February 17, 2009

LATE

MEMORANDUM

TO: Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services  
  
Honorable Rosalyn H. Baker, Chair  
Senate Committee on Commerce and Consumer Affairs

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 1110 – RELATING TO LONG-TERM CARE**  
Hearing: Tuesday, February 13, 2009, 1:15 P.M.  
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is require the Department of Human Services and the Department of Commerce and Consumer Affairs to establish a Qualified State Long-Term Care Insurance Partnership to combine funds from long-term care insurance policies and Medicaid to fund long-term care for Hawaii residents.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) opposes this bill.

Unlike existing partnership programs that require that all long-term care insurance benefits be used before applying for Medicaid, this bill does not seem to have such a requirement. The result would be a protection of assets while the insurance policy pays for long-term care costs and Medicaid pays for other medical costs. This would increase costs to the State.

Another problem with the bill is the use of the term resources and lack of explicitly stating that participants would need to meet Medicaid income requirements for

eligibility. Section 4 specifically mentions some protection of income. Additionally, if this bill is pursued, partnership policies should be required to have inflation protection and minimum daily benefit amounts.

DHS supports incentivizing individuals to purchase long-term care insurance to decrease State expenditures through Medicaid on long-term care, but it's unclear that such a partnership as proposed in this bill would achieve this effect. Based on a General Accounting Office report, those who participate in a long-term care partnership tend to have higher incomes and either would have purchased long-term care insurance anyway (80%) or would have been able to afford their long term care costs (20%). The report concludes that long-term care partnership programs are unlikely to produce any Medicaid savings.

However, if the demographic that purchases these policies shifted to a lower income one, then some savings could potentially be realized. Perhaps a cap on the amount of insurance available through this program would target the appropriate population. But the real problem is the low amount of retirement savings. Protecting assets is only important if you have them to protect.

Medicaid is the primary funding source for individuals who need long-term care services, whether for services in a nursing facility or home and community based services. In Hawaii, the average annual cost of private nursing home care exceeds \$100,000.

Under this proposed bill, Individuals who purchase a long-term insurance policy certified under a Qualified State Long-Term Care Insurance Partnership would be allowed to shelter assets equal to the amount of benefits provided by the policy when applying for Medicaid after insurance benefits have been exhausted. For example, an individual who purchases a policy that provides \$200,000 in benefits will have \$200,000 of their assets disregarded when the individual applies Medicaid coverage, which should occur after exhausting the \$200,000 insurance benefit. Potentially, the individual may have delayed accessing Medicaid funds for two years.

DHS would like to express our concern that the provisions of proposed new chapter, "Hawaii Partnership for Long-Term Care", in Section 1 only addresses the responsibilities of DHS, the "public" partner. The Department of Commerce and Consumer Affairs (DCCA) has oversight over the activities of the insurance companies, the "private" partner. DHS, as the State Medicaid agency, is responsible to secure

approval from the Centers for Medicare & Medicaid Services to establish the Qualified State Long-Term Care Insurance Partnership, and to promulgate rules to address the disregard of assets for a Medicaid applicant who has exhausted the benefits of a certified long-term care insurance policy. However, 42 United States Code Section 1396p, the Federal law enabling the partnership, requires that the state insurance agency shall ensure that insurance companies and their insurance policies comply with the requirements of a qualified State Long-term Care Insurance Partnership. Thus, Section 5 of the proposed chapter should specify that DCCA should be responsible to certify that the policies of participating insurance companies meet the requirements of the Qualified State Long-Term Care Insurance Partnership.

DHS also has concerns over the provisions in Section 7 of the proposed new chapter that requires DHS to establish an outreach program to educate consumers about the availability of long-term care insurance. DHS should not engage in activities that can be viewed as the promotion of the sale of private insurance policies. This may fall under the purview of DCCA.

DHS defers comments regarding the amendment in Section 2 to HRS section 431:10H-221 to the Department of Commerce and Consumer Affairs.

Thank you for this opportunity to testify.