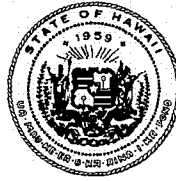


SB 1310

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

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

February 27, 2009

MEMORANDUM

TO: Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 1310, SD 1 – RELATING TO HEALTHCARE**

Hearing: Friday, February 27, 2009, 9:00 A.M.
Conference Room 211, State Capitol

PURPOSE: The purpose of this bill is to establish a region-specific, medical home health care federal demonstration project for the Waimanalo and Waianae area that provides culturally-sensitive, community-based services, including integrated behavioral services, which are vital to the populations they serve.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes this bill. While DHS appreciates the intent of a medical home demonstration to treat those who are uninsured, or those for which the medical home bills the patients' existing health plan, DHS opposes this bill for many reasons.

DHS opposes risking ineligibility for the increased Federal Medical Assistance Percentage (FMAP) in the American Recovery and Investment Act of 2009 (ARRA).

This bill offers a State statute and State appropriations for a Federal demonstration project that does not even exist. The State cannot, as directed by this bill, establish a Federal demonstration, but the bill could authorize participation. Only the Federal government can

establish a Federal demonstration, and any Federal demonstration that involves Medicaid recipients would require approval by the Federal Centers for Medicare and Medicaid Services.

DHS strongly opposes any demonstration in which Medicaid recipients would need to disenroll from their health plan, particularly those in QUEST Expanded Access (QExA). The State needs to be careful because any reduction in Medicaid eligibility, even if an unintended consequence of a Federal demonstration, would make the State ineligible for the estimated \$325 million new Federal funds available through the increased FMAP under the ARRA. Additionally, the State's participation in a Federal demonstration should be contingent upon the State's not being in breach of any existing contracts and therefore subject to litigation.

The intent of the previous version of this bill was to carve this demonstration out of QUEST Expanded Access (QExA); the ambiguity of this version of the bill precludes transparency of its intent. Only three of the fourteen FQHCs have chosen not to contract with a QExA health plan, including the two identified sites.

DHS supports the medical home concept, but it's important to understand that a medical home is a primary care provider, not a health plan. There is nothing that precludes a medical home demonstration from occurring within QUEST or QExA, with minimal increased cost to the State. However, participating sites would need to contract with the health plan in which the patients were enrolled. DHS intends to pursue a medical home demonstration in QExA and has offered to work with Waianae Coast Comprehensive Health Center in designing it.

If, instead, the intent of the bill is to establish a medical home demonstration for non-Medicaid patients, then the Medicaid related implications would be moot. Details on which patients would be enrolled are not provided.

Since the generalizability of the findings from the participation of a FQHC compared to a private practice is more limited, DHS feels that all practices should have the opportunity to compete to be eligible for any demonstration, not just FQHCs. The eligibility of providers should be based on the eligibility outlined in the Federal demonstration itself.

Again, the bill should specifically exclude Medicaid recipients from the demonstration or require that any Medicaid recipients participating in a medical home demonstration would not be required to change health plans and would be required to remain enrolled in one of the current four QUEST health plans or one of the current two QExA health plans. Also, if billing anyone, the medical home site should be required to bill the QUEST or QExA health plan in which the patient is enrolled for services provided. Otherwise, the State risks becoming ineligible for the increased FMAP under the ARRA.

Thank you for the opportunity to testify on this bill.



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

ON THE FOLLOWING MEASURE:

S.B. NO. 1310, S.D. 1, RELATING TO HEALTHCARE.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, February 27, 2009 **TIME:** 9:00 AM

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN TESTIMONY ONLY

For more information, call Deputy Attorney General
Lee-Ann Brewer at 587-3050.

Chair Mercado Kim and Members of the Committee:

The Department of the Attorney General has several concerns with this measure. This bill would establish a "region-specific, medical home health care federal demonstration project for the Waimanalo and Waianae area," and would appropriate an unspecified amount of State general funds "to the Waianae Coast Comprehensive Health Center." Only moneys received by the State and deposited into the state general fund pursuant to the federal American Recovery and Reinvestment Act of 2009 may be expended for the purposes of this Act.

First, the bill is ambiguous, in that it does not identify the federal authority and standards under which the demonstration project would be created, which federal agency would be approving the demonstration project, or what services would be provided. Yet, section 1 of the bill concludes that such a demonstration project that "provides for an alternative service plan" and "giving patients a choice of plans" will have a number of benefits for the State. There is nothing in the bill that describes the choice being created or what the demonstration project would be an alternative to. In section 1, the bill refers to two "medical homes" by name, but only identifies one of them as a recipient of the appropriation in section 3.

Second, it is unclear whether the State can unilaterally establish a federal demonstration project as described in this bill. The bill does not identify any authority under the American Recovery and Reinvestment Act of 2009, or other federal law, that gives the State this power to establish a federal demonstration project.

Third, the appropriation in section 3 appropriates funds "to the Waianae Coast Comprehensive Health Center." It is unclear what the nature of the appropriation is, because it is to a specific entity and, therefore, looks like it may be intended as a grant. Section 4 of article VII of the State Constitution requires that "[n]o grant of public money or property shall be made except pursuant to standards provided by law." If the appropriation is intended to be a grant, then the bill should refer to the general standards and requirements for grants provided by chapter 42F, Hawaii Revised Statutes. If the appropriation is not a grant, then it may be for a purchase of service which would require DHS to comply with Hawaii procurement law to expend the funds.

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