# SB2008

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LATE

February 9, 2010

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

**Re: SB 2008 – Relating to the Fair Access to Medical Care Act**

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition to SB 2008 which would create the quasi-governmental Health Care Treatment Advisory Panel with regulatory oversight over a health plan's rates. We have grave concerns with this measure.

In 2008, HMSA paid health care providers 95.2 percent of every dollar collected in dues. The remaining 4.8 percent was not sufficient to cover all our operating expenses, despite maintaining one of the lowest operating expense ratios of any health plan in the country. As a result, HMSA had a net loss of nearly $36 million. This trend is made worse by shrinking government payments to health care providers for Medicare and Medicaid as these providers expect HMSA to help make up the shortfall. This situation will undoubtedly worsen this year with the Department of Human Services announcing that it would be withholding payments to participating QUEST plans for at least 3 months.

Health plans in the state already must comply with a myriad of federal and local regulations including having to file rates with the Insurance Commissioner (IC) for approval. Rate filings are complex and created and reviewed by individuals with actuarial experience. The information contained in a rate filing includes the rate calculations and all the confidential supporting data, assumptions, and other documents (almost 90 pages of spreadsheets) needed to support those calculations. The files submitted are mostly worksheets which contain data about costs and cost trends involved in providing benefits to our members. These filings are examined by qualified individuals with appropriate accounting and actuarial skills and it is difficult, if not impossible, to understand how a Panel as outlined in SB 2008 would be able to take actuarial data and determine if a filing "provides for levels of treatment that are in accord with a reasonable standard of care and generally accepted medical practices" as well as assuring that the rates calculated are not excessive, but still adequate to allow health plans to continue to provide their benefits to their members and to continue to do so despite periods of adverse financial results.

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That being said, some of the specific concerns we have with SB 2008 include:

Timeframes

Having to file rates with the IC already puts health plans in a time crunch in order to ensure rates are approved with enough leeway to prepare for open enrollment periods of employer groups. Currently with the number of plans HMSA administers, we submit about 16 rate filings per year with each filing typically consisting of documentation for five different plans ranging from large and small groups, as well as individual plans, for both our PPO and HMO. With the Panel's timeframes in this measure, they would have to meet monthly just to review HMSA's rate filings. When the other plans' filings are taken into account, it is difficult to see how a Panel of busy medical professionals with no actuarial experience would be able to accomplish its tasks in a timely fashion. Additionally, the Panel is given the leeway to request additional information from plans, meaning that a rate filing review could be held up for an unspecified amount of time, threatening our ability to renew plans when needed.

Confidentiality

Health plans in the state file reams of paper with the IC, which contain an abundance of confidential information as to the operation of the plans themselves and how rates are calculated. This type of information revealed to competing plans would compromise our business and threaten to reveal what we would consider confidential information vital to our operations. There is no mechanism within SB 2008 to ensure confidentiality is maintained.

Quasi-Regulatory Powers

The Panel seems to be created as a quasi-governmental body given regulatory rights on par or greater than the IC. It does not however have to adhere to any other statute or regulation that a body of this type should have to follow including:

- No mechanism for any type of "sunshine" within this process. The Panel would seemingly operate in secret
- No requirement for the rules governing the Panel to be adopted following Chapter 91
- No mechanism for a plan to request a hearing if "aggrieved by any order or decision" made in relation to a rate filing. Health plans can currently request a hearing with the IC to protest a decision made by the IC on a rate filing. Plans are not given the same right to appeal a decision made by the Panel since the Panel is not added to this section of the statute (§431:14G-112)
- Oversight over the IC. The Panel would seemingly be able to trump the IC's decision that a rate is not excessive, inadequate, or unfairly discriminatory and is reasonable in relation to the costs of the benefits provided. In other words, if the IC approves a rate and the Panel does not, the rate is not approved

Some additional concerns we have with this measure include:

- Rate filings do not contain information concerning specific reimbursements for medical treatments, making it impossible for the Panel to connect the rate filing information to a specific payment to a specific provider for an "effective treatment"
- There is little to no guidance as to what would be considered a "reasonable standard of care and generally accepted medical practice". These terms are highly subjective

- The Panel is made up of medical providers and one member of the public. With the Prepaid Health Care Act in Hawaii, premium rates directly impact employers. Why would a panel with the authority to deny health plan rates consist only of individuals who would potentially stand to gain if rates were increased? There seems to be genuine inequity in the Panel's representation
- The measure actually includes a clause which would prevent a plan from being able to reduce a reimbursement rate "purely for the purpose of realizing a higher rate of return to the entity." Again, this language is completely subjective. Who would be entrusted to interpret the decision made by a health plan regarding a reimbursement rate?

Again, with DHS' announcement that it will be withholding payments to QUEST plans, there has been an unprecedented amount of discussion and collaboration between all affected stakeholders within the health care community. We believe that SB 2008 will be costly, burdensome and negatively affect the entire system if plans are unable to put rates into place in a timely fashion. We recognize the seriousness of the rising cost of health care and the difficulties medical providers face, but strongly believe that additional rate filing oversight by a panel of medical providers is not the answer to facilitate true reform of the health care system.

Rather than implement additional oversight and burdensome regulation, we support initiatives to increase transparency and data sharing throughout the entire health care system. Taking steps toward improving quality and empowering consumers is the direction we ought to be working towards at this time.

For the many reasons listed, we would respectfully request the Committees see fit to hold SB 2008. Thank you for the opportunity to testify today.

Sincerely,

Jennifer Diesman
Vice President
Government Relations

# Hawaii Association of Health Plans

LATE

February 9, 2010

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

**Re: SB 2008 – Relating to the Fair Access to Medical Care Act**

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

My name is Howard Lee 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.

HAHP appreciates the opportunity to testify in opposition to SB 2008 which would create a Health Care Treatment Advisory Panel (Panel) with the ability to regulate a health plans' rate filings.

Under current statutes, the Insurance Commissioner's (IC) office is tasked with reviewing the rate filings of all health plans. All HAHP member plans can attest to the fact that having to file rates with the IC for approval and awaiting the results of the IC's comprehensive review has slowed down the process for plans to be able to provide rates to groups in a timely fashion. The type of Panel outlined in this measure would be yet another layer of regulatory oversight for health plans to comply with and would, if enacted, further complicate and slow the rate review process.

It is also worth noting that it is unclear how the Panel would be able to use rate filings to determine "whether a rate adequately provides for the effective treatment of an injury or illness according to a reasonable standard of care and generally accepted medical practices." Rate filings contain actuarial data and spreadsheets which are used to explain and justify requests for rates. They do not contain the prices for specific hospital or physician services related to diseases

or treatments. It is unclear how a panel of medical providers and members of the public would be able to use rate filing information to accomplish the goals of SB 2008.

The need for an additional level of regulatory authority over health insurance rates has not been demonstrated in Hawaii. The IC and his staff have filled this role adequately in accordance with existing statutes. Asking health care providers, who would make up a majority of the "advisory panel", to render a decision on the adequacy of health insurance rates strikes us as a clear conflict of interest and not in the best interests of employers and the general public who pay the price of insurance.

These are only a few concerns we have with this measure. We believe that it is misguided, will not accomplish its goals and will end up placing additional regulatory burdens on an already strained system. For these reasons, we would respectfully request the Committees hold SB 2008.

Sincerely,

Howard Lee
President