

**SB 2264**

LINDA LINGLE  
GOVERNOR



LILLIAN B. KOLLER, ESQ.  
DIRECTOR

HENRY OLIVA  
DEPUTY DIRECTOR

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

February 24, 2010

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 2264 – RELATING TO QUEST HEALTH CARE PAYMENTS**

Hearing: Wednesday, February 24, 2010, 10:10 a.m.  
Conference Room 211, State Capitol

PURPOSE: The purpose of this bill is to require the Department of Human Services (DHS) to restore basic dental benefits under QUEST.

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

This bill would appropriate \$3,100,000 in State general funds at a time when the Department has a projected biennium budget deficit of more than \$100,000,000. Given the State's current fiscal situation and the \$1.23 billion budget shortfall for the biennium, pursuit of benefit expansions are not prudent at this time.

Medicaid dental benefits are provided through a fee-for-service program, not through the contracted QUEST and QUEST Expanded Access health plans. Thus, there may be title problems with this bill.

The reporting requirements in this bill are onerous, unnecessarily increase administrative cost, and would penalize DHS for a delay in reporting. Any appropriated general funds that DHS would have to pay to the treasury for a delay in reporting would mean that those funds could not be used to access federal funds. This provision could result in a loss of federal funds to the State. Currently, for every dollar the State spends in a Federal medical assistance program, the Federal government pays approximately two dollars. So for each dollar lost, three dollars worth of services will have to be cut for Medicaid recipients.

Thank you for this opportunity to provide testimony.




STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
Med-QUEST Division  
Administration  
P. O. Box 700190  
Kapolei, Hawaii 96709-0190

February 22, 2010

**MEMORANDUM**

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

FROM: Kenneth Fink, MD, MGA, MPH.   
Med-QUEST Division Administrator

RE: **BILLS REFERRED TO SENATE WAYS AND MEANS FOR 2010**

The following bills affecting the Medicaid program have been referred to Senate Ways and Means for hearing. The following are the budget implications for these bills.

The following bills, if passed, will require substantial new State general fund appropriations. Given the State's current fiscal difficulties and the \$1.23 billion budget shortfall for this biennium, we strongly encourage that the Senate Ways and Means Committee defer or not hear the following measures which **require new substantial State general fund appropriations**.

**S.B. 2030, S.D.1** - Relating to Health. By adding the requirement that DHS shall pay the health plans 15% interest on any delays in payments to the health plans, will require a new State general funds appropriation of **\$7.5 million**. The Med-QUEST Division faces a biennium budget shortfall of nearly \$150 million at the end of State Fiscal Year 2011, not including the \$7.5 million described above.

S.D. 1 also appropriates \$70 million from the Hawaii Hurricane Relief Fund, as well as \$149 in matching federal funds, to cover the Medicaid shortfall for FY 2010-2011.

**S.B. 2067, S.D.1** - Relating to Medicaid Eligibility. Requires DHS to provide Medicaid presumptive eligibility to patients waitlisted for long-term care. DHS would need a new State general fund appropriation of at least **\$2,000,000 per year**. Additionally, it should be noted that this is funding expended for people who are not even eligible for Medicaid, therefore, we cannot receive federal funds.

**S.B. 2099, S.D.1** – Relating to Health. Establishes limits on requests for proposals from health and human services providers for QUEST contracts that exceed \$100,000,000 and commence after the term of the agency director expires.

This proposal will disrupt care for Medicaid clients. The purpose of this bill is not clear but seems to be based on the need for national health care reform to be enacted. The timeline for this happening is uncertain. Having our health care contracts in limbo for an unknown length of time is not good for our Medicaid recipients or for State finances.

This bill also reduces the State's ability to strengthen its oversight and accountability of the QUEST health plans to ensure better quality of health care for Medicaid clients and for efficiency, transparency and greater value to Hawaii taxpayers.

**S.B. 2103, S.D.1** - Relating to the Disproportionate Share Hospital Funds. Appropriates State general funds of **\$12,291,054** for the State's portion of the Federal disproportionate share hospital allowance (DSH) to offset hospital costs from the uninsured and underinsured.

DSH funds are accessed as a Federal match to a State share that can be a new State general fund appropriation or certain general fund expenditures, such as certified expenditures of the Hawaii Health System Corporation (HHSC).

With agreement from HAH, DHS is submitting a Medicaid State Plan amendment to the Federal Centers for Medicare & Medicaid Services (CMS) using excess HHSC certified expenditures to match the federal DSH allowance for the period July 1, 2008 through June 30, 2009. Federal DSH allowance is still available for the period July 1, 2009 through December 31, 2011.

Due to the efforts of Hawaii's Congressional Delegation and others, a Federal Medicaid DSH allowance of \$2.5 million per quarter through December 31, 2011 has been authorized for Hawaii. DSH payments, using the distribution formula developed by the Healthcare Association of Hawaii (HAH), have been made through June 30, 2008.

Additionally, DHS has also been distributing "DSH-like" federal funds of \$7.5 million per year to hospitals statewide since 2005 pursuant to a creative Medicaid 1115 waiver that DHS obtained from CMS. DHS distributes these funds based on the same DSH formula developed by the HAH. The next distribution of these funds is scheduled to occur in February 2010. To date, \$xx million has been distributed to hospitals.

**S.B. 2264** - Relating to QUEST Health Care Payments. This bill would require an additional **\$3,100,000** in a new State general fund appropriation to restore adult dental care in Fiscal Year 2011.

**S.B. 2270** - Relating to Medicaid Reimbursements. Requires Medicaid reimbursement to hospitals for patients occupying acute-licensed beds who are on a waitlist for long-term care to be at least equal to the rate paid for acute care services; requires Medicaid reimbursement to long-term care facilities for patients with medically complex conditions to be at least equal to the rate paid for subacute care; appropriates funds for increased reimbursements.

This bill would require a new State general fund appropriation of approximately **\$10,000,000** to implement the reimbursement at the acute care rate for patients hospitalized and awaiting long-term care. This is based on the number of waitlisted patients from 2008 who were not found eligible for Medicaid. These payments for non-Medicaid eligible patients to nursing homes would have to be made with 100% State general funds.

Additionally, another State general fund appropriation of **tens of millions of dollars** would be required to implement paying subacute rates for those who are “medically complex.” Using the definition of “medically complex condition” for paying the subacute rate means that any patient with a chronic illness taking medications would qualify for the subacute rate. This is essentially everyone in a nursing facility and would cost additional tens of millions. The difference between the average nursing facility rate (\$234.62) and average subacute rate (\$536.96) is an additional \$302.34 per day.

**S.B. 2650, S.D.1** – Relating to the Department of Human Services. Requires Medicaid contracts between DHS and its contracted Medicaid health plan to contain provisions affecting the reimbursement obligations in the policies between the Medicaid health plan and the home and community-based case management agencies. Prohibits reductions of reimbursements of more than 10%.

This bill sets a dangerous precedent, **will require a new substantial State general fund appropriation** at a time the State faces a severe budget crisis, and could worsen patient access to care. DHS is facing a substantial budget shortfall and is making every effort to minimize the need to decrease patient benefits. This bill prioritizes the interests of certain providers over the interests of our low-income vulnerable recipients. DHS would need a substantial new appropriation of State general funds to offset the expected reduced health plan expenditures through increased efficiency lost as a result of this bill, or DHS will need to further decrease patient benefits.

DHS allows health plans to coordinate patient care through case management services. Health plans can hire staff for this purpose or contract with licensed companies. As such, contracts between the health plans and a provider with whom they may contract are privately negotiated between the health plan and that provider.

By statutorily requiring certain contractual payments for certain providers in this bill, case management agencies, chore providers, and non-emergency medical transportation, this bill will essentially block health plan flexibility to reallocate funds as necessary in the best interest of its vulnerable Medicaid members and will set a

dangerous precedent in allowing special interest groups seeking self-interested legislation to protect their incomes. This will have the effect of increasing program expenditures. This bill is tantamount to statutory, anti-trust price-fixing and is not in the best interests of the State taxpayers nor our Medicaid patients.

**S.B. 2810, S.D.1** – Relating to Prescription Drugs. Authorizes pharmacists to provide medication therapy management to qualified QUEST patients. Requires pharmacies to maintain prescription records and medication therapy management records electronically.

The proposed new service would need to be **entirely State general funded**. A State Plan Amendment (SPA) approval by the federal Centers for Medicare and Medicaid Services (CMS) would be needed to potentially access federal funds for this service. CMS would very likely not approve such a SPA because medication management is something already expected of providers in our managed care programs.

This bill also raises concerns about pharmacists' scope of practice. Not all pharmacists are trained to be clinical pharmacists. It is unclear if this bill would give all pharmacists prescribing authority or other new authority.

**S.B. 2934** – Relating to Medicaid. Appropriates general funds to pay for QUEST coverage for citizens of compact of free association nations (COFAs).

This bill would require DHS to provide QUEST benefits for medical assistance to citizens of COFA nations at great expense and with benefits that exceed the benefits offered to many U.S. citizens in Hawaii through QUEST ACE and QUEST Net.

**This bill will require a substantial new State general fund appropriation.** Providing this "Cadillac coverage" will require a new State general fund appropriation of approximately **\$7-10 million annually**, and it would result in further delayed payments to health plans and necessitate reductions in eligibility of benefits to Medicaid recipients.

This additional expense for services to COFAs and legal immigrants ineligible for federal Medicaid medical assistance **will result in three times the decrease in services to U.S. citizens and other immigrants eligible for federal Medicaid medical assistance.** In Federal medical assistance programs, the Federal government provides matching Federal funds to the State funds. Currently, for every dollar the State spends in a Federal medical assistance program, the Federal government pays approximately two dollars. So for each dollar of savings not realized through reductions to COFAs, three dollars worth of services will have to be cut for Medicaid recipients. **Therefore, this bill will result in the loss of Federal funds to the State, and reduce the net funding for Med-QUEST Division programs.**

This bill is also not necessary because the new Basic Health Hawaii (BHH) program covers services such as four prescription medications, either brand name or generic, and emergency services under the federal alien emergency medical assistance

program, such as dialysis. Anti-neoplastic medications, more commonly referred to as chemotherapy, are included among the covered prescription medications.

Providing all the services required in this bill can only be achieved through a reduction in services to Medicaid-eligible clients which also means a reduction in federal matching funds for the federal medical assistance programs, such as Medicaid.

In SFY 2009, State general fund expenditures for COFAs for medical assistance alone were almost \$51 million. In Hawai'i, more than \$120 million in State funds are spent each year on health care, education and other services for COFA migrants, yet the U.S. Department of the Interior only provides the State with about \$10.6 million to partially cover the costs.

Additionally, the following bills have budget implications but were not referred to Ways and Means.

**S.B. 2494, S.D. 1** – Relating to Insurance. Requires health insurers and like entities to offer at least the same drug coverage to the insured that the insured had under the insured's previous policy with a different insurer or like entity.

Prescription drugs are the fastest growing healthcare expenditure. Requiring a health plan to cover medications not on its formulary will increase that health plan's costs. Drug coverage, not defined in the bill, might extend beyond a formulary and include criteria for prior-authorization and step therapy, for example.

In the private sector, these increased health plan expenditures would be expected to be passed on through increased premiums, further taxing businesses trying to survive the current economic crisis.

In the public sector, DHS would require a substantial new State general fund appropriation. Because prescription drug coverage is included as a benefit in our QUEST and QUEST Expanded Access programs, this expansion of drug coverage would have to be done by each health plan contracted with DHS. Having the drug coverage expansion be excluded from the health plans could be done, but only if 100% State funded. Otherwise, the risk of duplicate billing of the Federal government would prevent federal approval. And if State-only funded, it would be very difficult to ensure that each claim was for a medication not covered by the individual's new DHS contracted health plan.

Other DHS programs, namely QUEST-ACE and QUEST-Net, have a limited drug benefit defined in the 1115 waiver approved by the Federal government. This bill would substantially expand that benefit, at yet another substantial additional cost, and would require an 1115 waiver amendment approved by the Federal government.



The Honorable Donna Mercado Kim, Chair  
Senate Committee on Ways and Means  
February 22, 2010  
Page 6

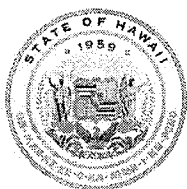
**S.B. 2598, S.D. 1** - Relating to Insurance. By adding the requirement that DHS shall pay the health plans 15% interest on any delays in payments to the health plans, will require a new State general funds appropriation of **\$7.5 million**. The Med-QUEST Division faces a biennium budget shortfall of nearly \$150 million at the end of State Fiscal Year 2011, not including the \$7.5 million described above.

Typically DHS pays capitation payments in a month for services provided during that month. Because providers frequently do not bill the health plans immediately when they provide services, DHS is, in effect, currently giving the health plans an advance on the amount needed to pay their providers. Therefore, **DHS may need to adjust the capitation rates downward** for advance payment based on the interest rate in this bill.

This bill does not have a Ways and Means referral since the funding implications were added in the S.D.1.

Thank you for considering this information.

c: Honorable Colleen Hanabusa, Senate President



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
919 ALA MOANA BOULEVARD, ROOM 113  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
February 24, 2010

The Honorable Donna Mercado Kim, Chair  
Senate Committee on Ways and Means  
Twenty-Fifth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Senator Mercado Kim and Members of the Committee:

**SUBJECT: SB 2264– RELATING TO QUEST HEALTH CARE PAYMENTS**

The position and views expressed in these written comments do not represent nor reflect the position and views of the Department of Health (DOH) or Department of Human Services (DHS).

The State Council on Developmental Disabilities (DD) **STRONGLY SUPPORTS SB 2264**. The purpose of this bill is to restore adult dental care under QUEST.

Last year, the 2009 Legislature, through HB 200 HD1 SD1 CD1, restored the Adult Dental Program. The following statement was noted in Conference Committee Report No. 167, “With the help of federal ARRA funds, your Committee on Conference was able to appropriate \$2.6 million in FY 2010 and \$3.1 million in FY 2011 to restore the Adult Dental Program, which was cut by the Governor.” The funds did not come to fruition.

A Memorandum to all Medicaid providers from Dr. Kenneth Fink, DHS Med-QUEST Division Administrator, dated June 26, 2009, informed providers that “Effective August 10, 2009, the adult (individuals age 21 and older) dental benefit will return to emergency dental services only, as was in effect prior to December 1, 2006. Covered adult dental emergencies are services to: Relieve dental pain; Eliminate infection; and Treat acute injuries to teeth and supporting structures.”

In addition to the adult dental benefit, individuals with DD were receiving dental services through DOH, DD Division’s Partnership in Community Living (PICL) program. PICL services were provided to individuals with DD who were under the following circumstances: pending determination of eligibility for Medicaid waiver services; or

The Honorable Donna Mercado Kim

Page 2

February 23, 2010

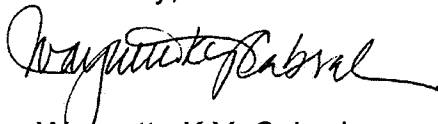
were Medicaid eligible, but the Medicaid waiver program or other program does not cover the service or item (dental services); or ineligible for Medicaid or any other federally reimbursed services, but eligible to receive community services. PICL was one of numerous programs to be abolished in the Governor's 2009 legislative package. The Legislature restored \$700,000 from special funds (Tobacco Settlement Funds). However, DOH determined that use of those funds for PICL was not appropriate, and the monies were not released. Consequently, the PICL program has been terminated.

The Council cannot emphasize enough the importance of comprehensive dental care services that include preventive, restorative, and emergency services for people with DD. We are all aware of how dental health, or the lack thereof, affects all aspects (emotional, psychological, and social) of our lives. Many individuals can share with you the experience of having a tooth extracted or acquiring serious health problems because necessary dental services were not available due to termination of the adult dental benefit coverage. People with DD have felt this effect to an even greater extent. Due to medical conditions related to their disability and the frequent prescription of medication, preventative and restorative dental care becomes an essential and cost effective service.

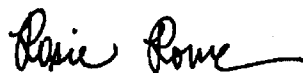
Dental care has been identified as one of the major health concerns, especially for individuals with DD. Compounding the challenges is the lack of dentists in several Neighbor Island areas and access to and resistance of dentists to serve Medicaid and QUEST clients. Clearly, it is vital to the health of participants of Medicaid and QUEST that dental care services other than emergency dental services become available.

Thank you for your interest and concern regarding the dental care needs of individuals with DD. We appreciate the opportunity to provide written comments in **strong support of SB 2264.**

Sincerely,



Waynette K.Y. Cabral  
Executive Administrator



Rosie Rowe  
Chair

Hawaii State Legislature  
Senate Ways and Means Committee  
2/24/2010

Testimony of Kelley Withy, President of Hawaii State Rural Health Association  
2010

The Hawaii State Rural Health Association would like to express our strongest support for SB2264.

As you know, health disparities exist in rural areas across Hawaii, including dental health disparities. This has resulted in our rural communities having some of the worst dental indicators in the United States. Without dental insurance, there can be no prevention or early treatment of minor dental problems, and they result in major dental problems that can only be cured by removal of teeth or major dental procedures.

Furthermore, poor dentition has been proven to be a barrier for obtaining jobs and decreases self esteem. Poor dentition has been proven to increase cardiac disease and negatively impact fetuses in-utero.

Therefore the Hawaii State Rural Health Association fully supports SB2264 and encourages you to support dental care for all of our citizens.

Sincerely,

Kelley Withy, MD, PhD  
President, Hawaii State Rural Health Association



## **HAWAII DISABILITY RIGHTS CENTER**

900 Fort Street Mall, Suite 1040, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

### **THE SENATE THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2010**

#### **Committee on Ways and Means**

#### **Testimony in Support of S.B. 2264 Relating to Quest Health Care Payments**

**Wednesday, February 24, 2010, 10:10 A.M.  
Conference Room 211**

Chair Mercado Kim and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in support of this bill.

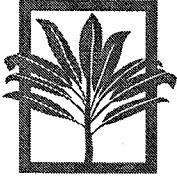
The elimination of basic adult dental benefits for Medicaid recipients was a very shortsighted undertaking. It is ironic that while parents teach their children to brush their teeth so that they will avoid further health problems, Hawaii, the Health state, has a policy which says that we will not pay for preventive dental care and yet will gladly cover the cost of extracting a tooth that has decayed and rotted because of a failure to receive preventive care.

A recent example on the Big Island illustrates that this is not mere rhetoric. We unfortunately became aware, some months ago, of the case of an individual with developmental disabilities whose tooth became so infected that he died before proper medical attention could be administered, despite being flown by helicopter to Honolulu.

So, when advocates claim that proper oral health is essential to one's overall health and well being, this example should illustrate the truth of that statement. We urge the

legislature to pass this common sense measure and provide this needed protection, so that hopefully no other individuals will suffer the same needless fate.

Thank you for the opportunity to testify in support of this measure.



## Hawai'i Primary Care Association

345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347  
www.hawaiiipca.net

**Senate Committee on Ways and Means**  
The Hon. Donna Mercado Kim, Chair  
The Hon. Shan Tsutsui, Vice Chair

### **Testimony in Support of Senate Bill 2264 SD1** **Relating to QUEST Health Care Payments** **Submitted by Beth Giesting, Chief Executive Officer** **February 24, 2010 10:10 a.m. Agenda, Room 211**

The Hawai'i Primary Care Association strongly supports this measure which appropriates funds to restore basic dental services for adults covered by Med-QUEST.

The mouth, teeth, and gums are as essential to health as any other part of the body. We should no more exclude the mouth from routine health care than the arms, liver, or ears. Accordingly, dental coverage limited to emergency-only services threatens the overall health of an individual: Recent research points to associations between chronic oral infections and diabetes, heart and lung disease, stroke, and low-birth-weight births—conditions that are more complicated and costly to treat than effective, timely oral health care. In addition, poor oral health and its impact on a person's appearance are linked to poorer prospects for getting and maintaining employment.

Adults covered by Med-QUEST are, by definition, low income and hence unable to pay out of pocket for the often substantial amount of dental care they need. Health centers, which should be the safety net for these underserved adults, are unable to meet the challenge because of the high cost of care and shortage of public support for this service. This financial conundrum severely hampers their ability to expand services to meet the needs of both Med-QUEST enrollees and the very large number of other low income people who have no dental insurance. Covering dental services through Med-QUEST is also a good investment because it earns a considerable federal match.

The Hawai'i Primary Care Association and its membership of community health centers, Native Hawaiian Health Systems, and other primary care organizations, providers and advocates, consider this measure among our highest priority legislative initiatives for 2010.

We all urge you to pass this measure and restore this essential health service. Thank you for this opportunity to testify in support of this very important bill.