

SB 2371

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ATTORNEYS AT LAW

February 17, 2010

Honorable Rosalyn H. Baker, Chair
Honorable David Y. Ige, Vice Chair
Committee on Commerce and Consumer Protection
The Senate
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: S.B. No. 2371, S.D.1 RELATING TO LIMITED BENEFIT HEALTH INSURANCE

Dear Chair Baker, Vice Chair Ige, and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written comments in strong support of S.B. No. 2371, S.D. 1, relating to limited benefit health insurance, which is to be considered for decision making by your Committee on Commerce Protection and Commerce on February 19, 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 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

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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.

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 except 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. S.B. No. 2371, S.D. 1 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 S.B. No. 2371, S.D. 1. Thank you for your consideration of the foregoing.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



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