

HMSA

LATE



An Independent Licensee of the Blue Cross and Blue Shield Association

March 9, 2010

The Honorable Ryan Yamane, Chair
The Honorable Scott Nishimoto, Vice Chair
House Committee on Health

Re: SB 2494 SD2 – Relating to Insurance

Dear Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition to SB 2494 SD2 which would require a health plan provide prescription drug coverage to a member which is identical to the prescription drug coverage the member had been offered by their previous health plan.

After examining this proposal further, we believe that the language contained in SB 2494 SD2 may constitute an Employee Retirement Income Security Act (ERISA) violation. This is because it contains a portability requirement of the drug benefit of an individual's previous health plan which is then mandated to be covered by "any insurer" issuing a plan with prescription drug benefits that the member may choose. ERISA preempts any state law that relates to an employee benefit plan including "all laws, decisions, rules, regulations, or other State action having the effect of law."

In addition to the potential issues with ERISA, the language contained within SB 2494 SD2 could end up being extremely burdensome for plans to implement, employers to manage and consumers to figure out. Some other concerns we have include:

- Administering prescription drug benefits on a member-by-member basis may be impossible to manage
- Plans determine premiums based on a known set of benefits. When members choose their prior plans' prescription drug benefit, which will differ from that being offered by their HMSA plan, rates may not be adequate to cover costs
- Employers will be left to figure out how to manage employees under the same medical plan receiving differing prescription drug benefits. Issues of equity may arise
- Consumers are not adequately versed in their benefits and don't have a full understanding about which prescription drug plan would be best for them. They may make a poor choice and end up with coverage that does not suit their needs
- Due to the administrative burden place on employers, they may choose to remain with their current health plan, despite the fact that cost savings could be offered if they were to make a change. This will ultimately hurt local businesses

Despite the good intentions of this measure, we believe that it raises more issues than it answers. We respectfully request the Committee see fit to hold SB 2494 SD2.

Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', with a long horizontal stroke extending to the right.

Jennifer Diesman
Vice President
Government Relations

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

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March 9, 2010

MEMORANDUM

TO: Honorable Ryan I. Yamane, Chair
House Committee on Health

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 2494, S.D. 2 – RELATING TO INSURANCE**
Hearing: Tuesday, March 9, 2010, 10:00 A.M.
Conference Room 329, State Capitol

PURPOSE: The purpose of this bill is to require 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.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) opposes this bill because this bill does not specifically exempt the Department's medical assistance programs from the requirements proposed in this bill. Without this specific exemption language, DHS health care program expenditures will increase. Electively increasing health care expenditures that will require a new appropriation at a time the State faces a substantial budget deficit is not fiscally responsible. Additionally, for some of our programs, implementation of the bill's provisions would be subject to Federal approval.

While DHS agrees with some, but not all, of the medication categories listed, this list is not exhaustive. This bill states that prescription drug treatment for any chronic

condition covered under one health plan must be covered by another. This will substantially increase health care costs.

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Certain 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 or would be state-only funded. The result of this bill could be to drop prescription drug covered as a benefit in these programs.

DHS adheres to medical necessity and continuing a medically necessary cancer treatment or immunodeficient regimen should be undertaken by all health plans anyway. The continuation of pediatric treatment for chronic conditions is less clear. For example, in the treatment of asthma there are a number of different inhaled bronchodilators (beta-agonists) with the same ingredient but different manufacturers. There is no scientific basis to not allow such substitution.

Drug coverage, not defined in the bill, might extend beyond a health plan's drug formulary and include criteria for prior-authorization and step therapy, for example. A health plan's being required to know and provide potentially numerous other health plans' criteria, as this bill will require, will add tremendous complexity and cost.

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 appropriation which is unrealistic given the State's revenue shortfall and would be passed onto taxpayers.

Thank you for this opportunity to provide testimony.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Tuesday, March 9, 2010, 10:00 a.m., Conference Room 329

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To: COMMITTEE ON HEALTH
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

From: Hawaii Medical Association
Gary A. Okamoto, MD, Legislative Co-Chair
Linda Rasmussen, MD, Legislative Co-Chair
April Donahue, Executive Director
Lauren Zirbel, Government Affairs
Dick Botti, Government Affairs

Re: SB2494 RELATING TO INSURANCE

Support the Intent

Chairs & Committee Members:

Hawaii Medical Association appreciates the intent of SB2494 as a measure to protect patients, particularly those with chronic conditions, by allowing them to retain coverage of their current life-saving medications when they are forced to change from one health plan to the next.

Health insurers may consider it worthwhile to make their prescription drug benefits proprietary and a part of their competitive positioning. However, when a patient's health coverage changes, new formularies can be very disruptive to their care, sometimes with life threatening implications. Expecting providers to go through a new round of prior authorization requests and demands to switch drugs due to differing formularies can be very time consuming and burdensome for busy practitioners, and may lead providers to refuse to accept patients who are moved to plans with overly restrictive policies. We encourage support of this legislation to protect patients from insurance industry practices that often interfere with maintenance of their health and health care.

While it may not be appropriate to require a health insurer or like entity to offer the same prescription drug benefits to insured individuals who voluntarily elect to change plans, we would encourage voting in favor of this legislation for further discussion.

Thank you for the opportunity to testify.

OFFICERS

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94-450 Mokuola Street, Suite 106, Waipahu, HI 96767
808.675.7300 | www.ohanahealthplan.com

March 9, 2010

To: The Honorable Ryan I. Yamane
Chair, House Committee on Health

From: 'Ohana Health Plan

Re: Senate Bill 2494, Senate Draft 2-Relating to Insurance

Hearing: Tuesday, March 9, 2010, 10:00 a.m.
Hawai'i State Capitol, Room 329

Since February 2009, 'Ohana Health Plan has provided services under the Hawai'i QUEST Expanded Access (QExA) program. 'Ohana is managed by a local team of experienced care professionals who embrace cultural diversity, advocate preventative care and facilitate communications between members and providers. Our philosophy is to place members and their families at the center of the health care continuum.

'Ohana Health Plan is offered by WellCare Health Insurance of Arizona, Inc. WellCare provides managed care services exclusively for government-sponsored health care programs serving approximately 2.3 million Medicaid and Medicare members nationwide. 'Ohana is able to take the national experience in providing an 'Ohana care model that addresses local members' healthcare and health coordination needs.

We appreciate this opportunity to submit our comments in opposition to Senate Bill 2494, Senate Draft 2-Relating to Insurance.

While we appreciate the intent of this bill, as well as the amendments made to its previous versions, we still must oppose this bill as it is still overly broad and would undermine the formulary model and the millions of dollars in savings it provides Hawai'i's people. Though Senate Draft 2 narrowed the scope of this bill to "life-saving medications", its definition is overly broad and subject to interpretation. After speaking with the proponents of this measure, in understanding their intent, we would prefer the House version of this bill, House Bill 2461, House Draft 2, which would limit the scope of the prescription drug provisions to EUTF enrollees for the period they are continuously enrolled.

This bill, as its currently written could still potentially remove competition from the market and would result in higher costs for the state. Prescription drugs are responsible for a sizeable portion of healthcare utilization and costs. Drug formulary boards use scientific evidence to select medications for preferred drug lists (PDL) and personalize those medications for a local population. Those PDLs foster competition between companies and ultimately drive down costs. 'Ohana's PDL is developed by our Pharmacy and Therapeutics (P&T) Committee made up of pharmacists, physicians and other experts.

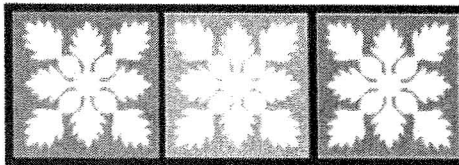
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As a managed care health plan, OHP's pharmacy services' mission is to provide safe, effective, appropriate medication therapy for our members. Providing medications needed to manage and prevent members' medical conditions actually reduces costs of hospitalization and emergency care. OHP uses drug evaluation review processes to insure new members receive the personalized medications they need.

Passage of this bill would nullify the efforts of these P&T Committees and the PDLs established by the various healthcare plans. It would also run contrary to the idea of competition and consumer choice. Right now, members have the ability to choose plans based on the different plan offerings, including PDLs.

We respectfully urge the committee to adopt the language of House Bill 2461, House Draft 2. Thank you for the opportunity to provide testimony in opposition to Senate Bill 2494, Senate Draft 2.

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Hawaii Association of Health Plans

March 9, 2010

The Honorable Ryan Yamane, Chair
The Honorable Scott Nishimoto, Vice Chair

House Committee on Health

Re: SB 2494 SD2-- Relating to Insurance

Dear Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

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 2494 SD2 which would require health plans allow members to receive prescription drug benefits which are identical to those offered by their previous plan.

This bill would put a tremendous burden on employers and union groups since they will end up with multiple drug plans, different premium rates, and different benefit coverage for their employees. We believe that this level of administrative burden could altogether discourage employers and unions from continuing to provide prescription drug benefits to their employees. We also believe that the language in SB 2494 SD2 could constitute a potential Employee Retirement Income Security Act (ERISA) violation because it contains a "semi-portability" requirement.

In addition, it would be nearly impossible for a health plan to determine the benefits offered by the member's previous plan (which is often not readily available) and to provide a timely premium quote to the group. These delays will make it difficult for health plans to market to employers and to enroll members in a timely fashion. The accounting for the different coverage being offered would also be a tremendous administrative burden, ultimately causing premium rates to increase. For the reasons above we would respectfully request the Committee see fit to hold this measure.

• AlohaCare • HMAA • HMSA • HWMG • MDX Hawaii • UHA • UnitedHealthcare •
HAHP c/o Howard Lee, UHA, 700 Bishop Street, Suite 300 Honolulu 96813
www.hahp.org

Thank you for the opportunity to provide testimony.

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Sincerely,

A handwritten signature in cursive script that reads "Howard Lee".

Howard Lee
President

Advisory Board

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1124 FORT STREET MALL, SUITE 205. HONOLULU, HI 96813
ACCESSIBLE ENTRANCE: 67 SOUTH PAUHI OFF BETHEL PH. 808.521.1846
F: 808.533.6995 E: INFO@MENTALHEALTH-HI.ORG W: WWW.MENTALHEALTH-HI.ORG

March 8, 2010

TO: House Health Committee Rep. Ryan I. Yamane, Chair Rep. Scott Y. Nishimoto,
Vice Chair, and members
Tuesday, March 9, 2010, 10 am

STRONG SUPPORT FOR SB2494

Dear Representatives:

Mental Health America of Hawaii strongly supports SB2494, which provides physicians and their patients with continuity of care for prescription medications when patients change health plans.

Medications for mental illnesses vary greatly in their effectiveness in treating specific symptoms or disorders as well as in their side effects. There are great differences in responses to medications by different individuals. Not everyone responds the same to a given treatment. Treatment decisions are complex, combining both a thorough understanding of pharmacology and a detailed knowledge of a patient's unique condition and medical history.

It can take months and many trials with many different medications to stabilize a mental health patient on the right medication or combination of medications. Therefore, mental health patients who are suddenly switched to a different medicine may suffer both physically and psychiatrically, and this could trigger more costly treatment, such as additional physician visits, ER visits, and even hospitalization.

That is why Mental Health America of Hawaii urges your support for SB2464, which would insure stability and continuity in treatment if there is a change in the patient's health insurance. Mahalo for the opportunity to provide testimony.

Sincerely yours,

Marya Grambs, Executive Director