

SB 2598

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February 4, 2010

MEMORANDUM

TO: Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 2598 – RELATING TO INSURANCE**

Hearing: Thursday, February 4, 2010, 4:00 PM.
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to require health insurers to promptly pay claims for services to Medicaid recipients, by repealing the exemption for Medicaid claims from the clean claims law.

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

DHS foremost cares about maintaining access to health care for its recipients.

DHS believes that health care providers contracted with health plans operating under DHS contracts should receive prompt payment for their services. For that reason, DHS included prompt payment requirements in its contracts with the health plans. The health plans contracted by DHS are required to pay 90% of clean claims in thirty days and 99% in ninety days. This is the same prompt payment requirement that the federal government imposed on Medicaid fee-for-service under the American

Recovery and Reinvestment Act. Health plans that do not meet these requirements are subject to sanctions. No health plan has not met these requirements.

While we understand the intent of this bill and support providers who care for our clients, we recognize that a health plan new to a program, such as one of the QUEST health plans being awarded a QUEST Expanded Access contract, would be potentially contracting with a new array of provider types. Testing claims processing systems is difficult until providers actually begin submitting claims. We believe that there should be a period of six months after beginning a new contract in a program should remain exempt from the State prompt pay requirement.

However, our position on this bill is closely tied to S.B. 2030 that would exempt health plans contracted with DHS from the prompt pay requirement if the health plan's payment delay results from a delayed payment from DHS to the health plan.

DHS understands the implications to a contracted health plan if payments to it are delayed. While a health plan might decide not to utilize its reserve and stop payments to providers, this could potentially result in providers stopping serving DHS recipients until reimbursement recommences.

As DHS faces a substantial budget shortfall and anticipates deferring health plan payments for three months, the issues raised in these bills are not academic. Protecting the providers means health plans suffer; protecting the health plans means providers suffer. Given these extraordinary times, the more broadly the impact can be distributed, the less severe it will be for any one group.

For the current situation, a potential compromise in a collaborative attempt to minimize negative impact on patients could be that health plans continue payment for a portion of the period, say two of the three months to all providers and perhaps to more

vulnerable providers during the third month, and less vulnerable providers would accept a delay in payments for one month.

This potential approach is merely an example of how a community could work together in a time of need. Passage of S.B. 2598, H.B. 2208 or S.B. 2030 would make such an approach untenable, and it could end up being the patients who suffer.

Thank you for the opportunity to provide written testimony on this bill.



SENATE COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair

Conference Room 016
Feb. 4, 2010 at 4:00 p.m.

Supporting SB 2598 with an amendment.

The Healthcare Association of Hawaii represents its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Thank you for this opportunity to testify in support of SB 2598, which requires health plans contracted by the State for Hawaii's Medicaid program to pay clean claims submitted by health care providers in a timely manner.

This is one of several bills sponsored by the Healthcare Association that are designed to improve the operations of Hawaii's Medicaid program for the benefit of the health plans, the providers, and the patients whom they serve.

Medicaid operates in partnership with Hawaii's health care providers, as it does not employ health care practitioners, but rather, provides the financing to health care providers for services rendered to Medicaid participants. Prior to 1994, Medicaid paid providers directly on a fee-for-services basis. In 1994, the Quest program was implemented to provide health care to many Medicaid participants using a managed care approach. The State now contracts with health care insurance plans and pays each plan a capitated amount for each participant. The health plans in turn pay providers that deliver care to Medicaid participants.

QuestEx was implemented about a year ago to provide care on a managed care basis to the Medicaid aged, blind, and disabled population. Since QuestEx began operating, health care providers have experienced increases in delayed payments from health care plans contracted by the State.

The Healthcare Association is conducting a survey of its provider members to determine the dollar amount of claims submitted by providers that have not been paid by the health plans contracted under QuestEx. The survey also asks for the lengths of delays in payments. The survey has not yet been completed, but based on responses from about one-third of respondents, Hawaii's health care providers have experienced delayed claims totaling millions of dollars that have not yet been paid. These unpaid claims reduce providers' working capital and limit their capacity to pay employees and purchase equipment and supplies. If this trend continues it could endanger providers' ability to deliver quality care.

The clean claims act that appears in Section 431:13-108, Hawaii Revised Statutes, requires health plans to pay providers on a timely basis when uncontested claims are submitted. Specifically, the law requires payments to be made within thirty days for clean claims submitted in writing, and within fifteen days for clean claims submitted electronically.

However, the law contains an exemption for Medicaid. As a result, health plans contracted by the State under Medicaid, including QuestEx, may delay payments without penalty. This bill repeals the exemption for health plans contracted by the State under Medicaid from the clean claims law.

The Healthcare Association would like to suggest an amendment (attached) that would require the State to pay the health plans contracted by Medicaid on a timely basis. This objective is accomplished by creating a disincentive for the State to pay the health plans late. The amendment requires the State to pay 15% interest on late payments, the same rate of interest that the clean claims act requires health plans to pay providers on late payments.

The Healthcare Association is currently hosting meetings with Medicaid health plans to discuss the bill in the hopes of garnering their support. If they cannot support the bill in its current form we hope these discussions result in compromise language. Meanwhile, we request that the bill continue to advance in the legislative process.

For the foregoing reasons (with the suggested amendment) the Healthcare Association supports SB 2598.

ATTACHMENT to Healthcare Association testimony

Amendment requiring DHS to pay Medicaid health plans in a timely manner.

Add a new Section 2 to the bill as follows:

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Medicaid payments. (a) The State shall pay health plans with which it has contracted under its Medicaid program according to the terms of the contracts. In the event that circumstances prevent the State from complying with this section, the State shall pay the health plans interest on any amounts remaining unpaid at a rate equal to fifteen per cent a year, commencing on the day payment is due and ending on the date of the payment.

(b) This section shall not apply in those cases where delay in payment is due to:

- (1) A bona fide dispute between the State or any county and the contractor concerning the services or goods contracted for;
- (2) A labor dispute;
- (3) A power or mechanical failure;
- (4) Fire; or
- (5) Acts of God.”

HMSA



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February 4, 2010

The Honorable Suzanne Chun Oakland, Chair
The Honorable Les Ihara, Jr., Vice Chair

Senate Committee on Human Services

Re: SB 2598 – Relating to Insurance

Dear Chair Chun Oakland, Vice Chair Ihara and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2598 which would repeal the clean claims exemption for Medicaid claims.

As you are aware, recently the Department of Human Services (DHS) stated that due to budgetary shortfalls, they will withhold payments to contracted QUEST plans, beginning in April and extending through June. While we understand the budgetary restrictions the State is facing, DHS' decision significantly impacts a health plan's ability to pay for services in the timeframes noted in this measure.

HMSA is committed to working with the other stakeholders affected by DHS' statement of non-payment. However, at this time we do need to voice our opposition to this measure as drafted.

Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD' with a flourish.

Jennifer Diesman
Vice President
Government Relations



Hawai'i Primary Care Association

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Senate Committee on Human Services
The Hon. Suzanne Chun Oakland, Chair
The Hon. Les Ihara, Jr., Vice Chair

Testimony in Support of Senate Bill 2598

Relating to Insurance

Submitted by Beth Giesting, Chief Executive Officer
February 4, 2010 4:00 p.m. Agenda, Room 016

The Hawai'i Primary Care Association supports this measure, which ensure that Med-QUEST providers are paid promptly for their services upon submission of a clean claim. It appears necessary to advance this legislation both because:

- Recent experience with the QExA plans revealed wide-spread problems with prompt and accurate payments; and
- Providers who serve Med-QUEST patients should be rewarded with prompt payment for participating in a public insurance program that pays them less than other insurers do.

Having offered our support for this measure, it is important to note that the Med-QUEST Administration is lagging payments to the Plans due to the State's economic condition. This makes it extremely problematic to force the Plans to provide timely payments for their obligations when the State is deficient in its own.

Thank you for this opportunity to testify in support of this very important bill.