

**SB 2934**

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 9, 2010

MEMORANDUM

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

Honorable J. Kalani English, Chair  
Senate Committee on Transportation, International and  
Intergovernmental Affairs

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 2934 – RELATING TO MEDICAID**

Hearing: Tuesday, February 9, 2010, 1:30 P.M.  
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to appropriate general funds to pay for QUEST coverage for citizens of Compact of Free Association (COFA) nations.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes this bill. This bill would require DHS to provide QUEST benefits for medical assistance to citizens of COFA nations at an expense and with benefits that exceed the benefits offered to many citizens of Hawaii through QUEST ACE and QUEST Net. Providing this "Cadillac coverage" will require a new appropriation of approximately \$7-10 million in State general funds, and it would result in further delayed payments to health plans and necessitate reductions in eligibility of benefits to Medicaid recipients.

Basic Health Hawaii (BHH) is a new program to provide medical assistance, as proposed in this bill, to those who are citizens of nations with a Compact of Free Association with the United States (COFAs) and who are currently eligible for State-only funded medical assistance and also to legal immigrants residing in the United States for less than five years who are currently uninsured because, although they are legal residents, they are ineligible for federal Medicaid medical assistance. BHH is intended to expand medical assistance to a greater number of the State's residents.

The services covered under BHH, as indicated in the proposed Hawaii Administrative Rules for BHH that went for public hearing on January 25 and 26, 2010, also include 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.

Currently, non-pregnant immigrants legally residing in Hawaii for less than five years are not eligible for any medical assistance and COFAs are currently eligible for state-only funded medical assistance.

Providing the QUEST coverage for COFAs 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 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.

Under the Compacts of Free Association, citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau can travel freely, work, and reside in the United States as non-immigrants. The intent of the Compacts appears to be to allow the citizens of these nations the opportunity to “live the American dream.” The intent does not appear to have the United States become the safety-net for these nations.

The Compacts expressly state “it is not the intent of Congress to cause any adverse consequences for an affected jurisdiction” and specifically include Hawaii in the definition of affected jurisdiction. The Compacts also expressly state “any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means of support in the United States, is deportable.” Individuals on any type of public assistance, including Hawaii’s state-only funded medical assistance for COFAs, do not have sufficient means of support.

Consistent with the intent of the Compacts, in 1996 Congress made COFAs ineligible for Medicaid. Since 1996, Hawaii has continued to provide Medicaid-like coverage to COFAs through State-only funded programs without receiving any Medicaid federal funds. In SFY 2009, State 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.

The expense for QUEST coverage for COFAs 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.

The State can not afford increasing expenditures while facing a substantial deficit, over \$1 billion for the biennium.

Thank you for this opportunity to provide written testimony.

# Micronesians United - Big Island

Supporting a fuller life for Micronesians living in Hawai'i

**Testimony in Support of S.B. 2934  
Relating to Medical Assistance  
before the Senate Committees on Human Services and  
Transportation, International and Intergovernmental Affairs**

**Tuesday, February 9, 2010**

Chair Chun-Oakland, Chair English, and Members of the Committees:

I am Samuel M. Nathan, offering testimony in support of this bill which appropriates general funds to pay for QUEST coverage for citizens of compact of free association (COFA) nations. We request the continuation of comprehensive MedQUEST benefits for COFA migrants for the following reasons:

- \* Discontinuing most of the health benefits that COFA migrants now have through MedQUEST would have a drastic impact on their overall health status. Many of them require procedures and services beyond those that would be reimbursable through the propose Basic Health Hawaii plan
- \* Severely curtailing low-income COFA migrants' health benefits would have a serious economic impact on the entire COFA community. We fear that many families would find it necessary to go in debt to pay for the health care of members of their extended families who only have the medical coverage available through Basic Health Hawaii.
- \* We want to emphasize that the COFA migrants are only one of many groups that have immigrated to Hawaii over the years to make their way in life. Though the COFA migrants are not citizens, they are in Hawaii legally and most of them will live out their lives here. Many of them have family members who are U.S. citizens. Many of them are working, paying taxes, and contributing to their communities in the state of Hawaii. Accordingly, we are hopeful that the state will continue to provide generous health care benefits through MedQUEST to those COFA migrants who have low incomes and limited ability to pay for their own health care.

We do agree with the state administration that the federal government should pay for health care for low-income COFA migrants. I do hope that we can work together to have the federal government take on that responsibility. In the meantime, we urge that the State continue to serve low-income COFA migrants through the MedQUEST program. We appreciate your sincere interest in the welfare of COFA migrants. and we thank you for the opportunity to provide this testimony.

Samuel M. Nathan  
Chair, Health Care Task Force  
Vice-President, Micronesians United - Big Island



SENATE COMMITTEE ON HUMAN SERVICES  
Senator Suzanne Chun Oakland, Chair

SENATE COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
Senator J. Kalani English, Chair

Conference Room 016  
February 9, 2010

**Supporting SB 2934.**

The Healthcare Association of Hawaii advocates for 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 2934, which appropriates funds for Quest coverage for citizens of Compact of Free Association (COFA) nations.

The United States government has agreed to allow citizens of the COFA nations of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau to travel freely, live, work and attend school in America. In 1996, Congress made COFA migrants ineligible for Medicaid. Since that time, Hawaii has stepped up to take on this responsibility by providing them with free and comprehensive Medicaid-like coverage.

Last year, however, the Department of Human Services (DHS) attempted to remove COFA citizens from that comprehensive coverage and to shift them to a limited benefit plan called Basic Health Hawaii. At that time the coverage options of Basic Health Hawaii would not provide adequate care to many COFA citizens, including hundreds with medical conditions including cancer and renal failure. The limited coverage provided to these patients by Basic Health Hawaii would endanger their lives and place severe financial stresses on hospitals and other health care providers because they would not be fully compensated for their services.

Health care providers are already under financial hardships due to low payments for services from insurers. In addition hospitals provided \$141 Million in uncompensated care last year to patients with partial or no insurance. Hospitals and other health care providers could incur additional losses amounting to millions of dollars in uncompensated care if COFA citizens are transferred to Basic Health Hawaii.

A federal judge issued a temporary restraining order based on procedural grounds preventing the State from removing COFA citizens from the State-funded health programs in which they were participating. Since then DHS has engaged in more extensive formal procedures to establish Basic Health Hawaii, with the intent of transferring COFA citizens to it. This bill will create the funding necessary to maintain Quest coverage for them.

For the foregoing reasons, the Healthcare Association of Hawaii supports SB 2934.



## Hawai'i Primary Care Association

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

### **Senate Committee on Human Services**

The Hon. Suzanne Chun Oakland, Chair

The Hon. Les Ihara, Jr., Vice Chair

### **Senate Committee on Transportation, International and Intergovernmental Affairs**

The Hon. J. Kalani English, Chair

The Hon. Mike Gabbard, Vice Chair

## **Testimony in Support of Senate Bill 2934**

### **Relating to Medicaid**

**Submitted by Beth Giesting, Chief Executive Officer**

**February 9, 2010 1:30 p.m. Agenda, Room 016**

The Hawai'i Primary Care Association strongly supports this measure which would ensure continuing Medicaid eligibility for migrants under the Compacts of Free Association (COFA). There are compelling humanitarian, legal, and economic reasons to continue to ensure that COFA migrant adults get all the health care they need.

The Department of Human Services is proposing to terminate access to Medicaid for this group, substituting a limited benefit program with limited enrollment. It is clear that both COFA migrants who are beneficiaries of such a program and the providers of care to them will be negatively affected. For the migrants, many of whom come here for health care because it is not available to them otherwise, the proposed limited benefits will cover but a fraction of what they need. Because of the enrollment cap, it is likely that not all migrants will have access even to the limited services in the proposed basic state program.

We are also concerned about the financial effect on community health centers (CHCs) if migrants are no longer Medicaid-eligible. CHCs are by far the most likely providers of care to migrants because they specialize in language and cultural access and provide a host of other support, management, and coordination services that migrants are likely to need in order to get better. These services are costly to the health center but save the Department and hospitals a considerable amount of money. Medicaid does pay a higher rate to health centers in recognition of this but the proposed rates for the limited benefit plan would not. Health centers will be in jeopardy of losing millions of dollars as they serve this special population.

We do acknowledge the considerable financial burden that this places on the State and, like the Legislature and Administration, continue to advocate with the federal government to take responsibility for the affects of the Compact on our state.

We 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.





## **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 Human Services  
Committee on Transportation, International and Intergovernmental Affairs**

**Testimony in Support of S.B. 2934  
Relating to Medicaid**

**Tuesday, February 9, 2010, 1:30 P.M.  
Conference Room 016**

Chair Chun-Oakland , Chair English, and Members of the Committees:

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

We believe that this is an important measure which will provide some minimum protection for this population. The Legislature will recall that the Dept. of Human Services attempted to unilaterally eliminate the Medicaid benefits for the COFA residents when it proposed the Basic Health Hawaii plan. As a result of a lawsuit filed by Lawyers For Equal Justice, the Medicaid benefits were kept in place, pending the adoption of Administrative Rules for the Basic Health Hawaii Plan.

While the Basic Health Hawaii plan is supposed to provide some essential health care coverage, it is very unclear what specific services are to be covered. I attended the public hearing on January 25, 2010 and was very dismayed to see the manner in which it was conducted. It lacked any meaningful public participation. Notice of the hearing and the provisions to be considered were not provided in a language which could be understood by many in the audience. Several individuals kept asking questions in the

hope they could better understand the provisions so that they could provide testimony. Instead of providing this information, the Hearing Officer insisted that she would only receive public comments and would provide no information. This circular discussion continued for most of the afternoon. When audience members expressed frustration at this process, another DHS individual stated that if they did not "behave" the sheriff would be called to escort them out. This public hearing can only be described as farcical at best.

It is important that the legislature ensure that minimal protections are put in place for this vulnerable population. This bill accomplishes that by appropriating funds so that that such life and death matters as chemotherapy and dialysis benefits will be provided. Passage of this bill will serve as a guarantee that at a minimum, COFA residents need not worry about obtaining these medical treatments.

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