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TO THE SENATE COMMITTEE ON HEALTH

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, February 16, 2011
2:45 p.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON SENATE BILL NO. 857 - RELATING TO MEDICAL SAVINGS
ACCOUNTS**

TO THE HONORABLE JOSH GREEN, M.D. AND MEMBERS OF THE COMMITTEE:

My name is Gordon I. Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department").

The Department takes no position on this measure, which enables medical
savings accounts. We support the concept of a high deductible policy for at least some
people because it creates an incentive for personal responsibility and cost control. But,
on the other hand, we note that in the past the Prepaid Health Care Act has been an
impediment to the use of medical savings accounts in practice.

We thank the Committee for the opportunity to provide testimony.

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SENATE COMMITTEE ON HEALTH

TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING SB 857 RELATING TO MEDICAL SAVINGS ACCOUNT

TESTIFIER: FREDERICK D. PABLO, DIRECTOR OF TAXATION
 (OR DESIGNEE)
COMMITTEE: HTH
DATE: FEBRUARY 16, 2011
TIME: 2:45PM

POSITION: UNNECESSARY

This measure provides for the establishment of tax-advantaged "Medical Savings Accounts."

The Department of Taxation (Department) **suggests that this measure be held because it is largely unnecessary.**

Hawaii law currently conforms to Internal Revenue Code Section 223, which provides for tax-advantaged Health Savings Accounts. Health Savings Accounts accomplish essentially the same objective of this measure and therefore this measure is duplicative and unnecessary.

Of particular note, this measure appears to allow employees to set up their own portable Health Savings Accounts even if their employer does not administer a plan. The Department suggests maintaining conformity to the Internal Revenue Code because it may be impractical for an employee to have a Health Savings Account without an employer to administer it.



HAWAII MEDICAL ASSOCIATION

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Wednesday, February 16, 2011 2:45 p.m. Conference Room 229

To: COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair

From: Hawaii Medical Association
Dr. Morris Mitsunaga, MD, President
Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: SB 857 RELATING TO MEDICAL SAVINGS ACCOUNTS

In Support

Chairs & Committee Members:

The Hawaii Medical Association strongly supports SB 857 Relating to Medical Savings Accounts for the following reasons:

(a) Health savings accounts (HSAs) are an encouraging development in the market for health insurance, creating a new opportunity for affordable coverage, and engaging patients as allies in managing costs and achieving high value for health care spending.

(b) HSAs combine a tax-advantaged savings account earmarked for medical expenses with a high-deductible health insurance plan (HDHP). Lower insurance premiums offset, in-part or in-full, the amount used to fund the account, which, in turn, can be used to pay expenses before the deductible has been met.

(c) The money belongs to the account holder, and unspent balances accumulate and accrue interest, tax-free, from year to year. Should the individual or family meet the high deductible, health plan coverage kicks in, typically in the form of a preferred provider organization (PPO), with little to no cost sharing and limits on total out-of-pocket costs.

(d) Because patients are literally spending their own money (most of the time), they have greater control over their health care decisions, while assuming greater financial responsibility for those decisions.

(e) HSAs provide a coverage option to those who prefer to purchase true insurance—protection against the financial consequences of low-probability, high-cost events—

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- STEPHEN KEMBLE, MD EXECUTIVE DIRECTOR - CHRISTOPHER FLANDERS, DO

rather than coverage that, to a large extent, amounts to prepayment of anticipated and routine health care. High deductibles keep premiums down, bringing coverage within reach for many low-income individuals and families.

(f) Because people are spending their own money before the deductible has been met, high deductibles shift the locus of cost-consciousness, and thus decision making, from third-party payers to patients and those who care for them. Such cost-consciousness is a welcome antidote to the widening divide between public expectations and rising health care costs and could lessen the need for heavy-handed managed care or government controls. HSAs encourage patients to comparison shop among treatment options, as well as among physicians and hospitals. Note that only a critical mass of savvy shoppers is needed to make health care markets more responsive for everyone.

(g) Several features of HSAs protect against inappropriate underutilization of care. The savings account itself allows enrollees to set aside money to pay for medical expenses, particularly expenses incurred before the deductible has been met. Federal law requires HSA high-deductible health plans to provide a stop-loss limit on patient out-of-pocket expenses. Someone with a chronic or expensive medical condition could find an HSA more affordable than conventional coverage because of the premium savings, out-of-pocket spending limits, and tax advantages (not to mention that they would have greater control over health care decisions).

(h) Having HSA coverage might encourage patients to seek health information that, in turn, prompts greater use of preventive services or adoption of healthy lifestyle habits. HSAs could also increase aversion to future costs of expensive or chronic conditions. In any case, more evidence is needed on the actual impact of HSAs on patient behavior, and on mechanisms through which such impact occurs.

(e) As was noted in Newsweek Magazine, January 4, 2010 issue, Indian Gov. Mitch Daniels insured 50,000 low income residents through a budget-neutral combination of health savings accounts and catastrophic coverage. U.S. Health and Human Services Secretary Mike Leavitt praised the legislation, saying, "There is no other program out there as innovative as what I'm seeing here in Indiana."

(f) The January 2009 Census shows that 8 million people are covered by HSA/High-Deductible Health Plans. Hawaii is behind the times on this trend.

Thank you for the opportunity to testify.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Medical savings accounts

BILL NUMBER: SB 857

INTRODUCED BY: Slom, Shimabukuro and 6 Democrats

BRIEF SUMMARY: Adds a new part to HRS chapter 235 to establish medical savings accounts (MSA). On and after 12/31/11, an employer may offer to establish medical savings accounts and may contribute up to a maximum of \$3,000 to an employee's account. An employee may also establish a medical savings account if his employer does not establish an account. If an employer contributes less than the maximum for a year, the employee may elect to contribute the difference. All employee contributions to medical savings account shall be made on a pretax basis. Employer contributions to an employee's medical savings account shall constitute a deduction from the employer's state taxable income.

Delineates eligible expenses that may be paid out of the account. Requires the employee to submit documentation of medical expenses paid by the employee in the tax year to the account administrator who shall reimburse the employee from the employee's account. Further establishes provisions relating to the use of account moneys and withdrawal of funds.

Moneys in the medical savings account, including interest income, shall not be taxable as Hawaii gross income if they are: (1) in an employee's medical savings account; and (2) withdrawn to pay eligible medical expenses. Moneys in the account shall be taxed as Hawaii adjusted gross income when moneys are withdrawn for purposes other than the payment of eligible medical expenses.

EFFECTIVE DATE: July 1, 2011, applicable to tax years beginning after December 31, 2011

STAFF COMMENTS: The Health Insurance Portability and Accountability Act (HIPAA), enacted in 1996, established a national test of MSAs in the private health insurance market. Effective January 1, 1997, MSA plans were available to individuals and families eligible for such coverage under the terms of HIPAA. It should be noted that IRC section 220 (with respect to medical savings accounts) is operable for Hawaii income tax purposes if such accounts have been approved by the secretary of the treasury of the United States. Since Hawaii recognizes the federal provisions relating to the establishment of MSAs, the adoption of this measure would appear to be unnecessary.

Apparently there is some confusion over the ability to access and establish Medical Savings Accounts. Medical Savings Accounts are associated with a high deductible medical insurance plan which under Hawaii's Pre-Paid Health Care Law is not permitted for employer groups. Thus, for the majority of Hawaii workers who are covered by the Pre-Paid Healthcare law, such high deductible medical insurance cannot be offered. Thus, for the minority of workers who are independent contractors, self-employed, or sales representatives, the Medical Savings Account may be a plan of choice as it would afford health insurance coverage at a relatively low-premium because of the high deductible option. That being the case, this proposal is superfluous.

Digested 2/15/11