

Honolulu, Hawaii

**Feb 8**, 2012

RE: H.B. No. 2448  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2448 entitled:

"A BILL FOR AN ACT RELATING TO MEDICAID,"

begs leave to report as follows:

The purpose of this measure is to establish a formula for calculating the amount to be contributed by the State towards a claimant's attorney's fees and costs, in an action to recover costs for medical assistance or burial payment where a Medicaid recipient was injured, suffered a disease, or died under circumstances creating a tort or other liability or payment obligation against a third party.

The Department of the Attorney General and the Department of Human Services supported the measure. The Hawaii Association for Justice opposed the measure.

Your Committee notes the concerns of the Hawaii Association for Justice that the amendments to current law proposed by this measure contradict the directive of the United States Supreme Court that states' recovery for Medicaid expenses in third-party liability cases is restricted to recovery from portions of a damage or settlement award specifically allocated or allocable to reimbursement for medical damages. Your Committee notes that this testifier expressed that this measure creates arbitrary or otherwise improper methods of allocating costs and determining reimbursement.

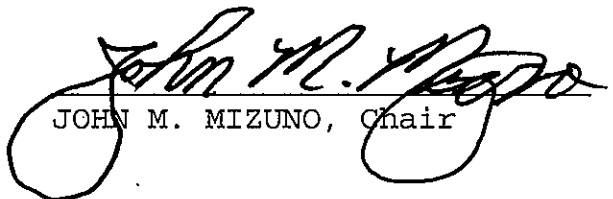


Your Committee has amended this measure by:

- (1) Inserting definitions of "medical institution" and "value of damages" for purposes of Medicaid liens;
- (2) Specifying that the lien amount in a notice of lien sent by the Department of Human Services for reimbursement of Medicaid benefits shall be presumed to be valid; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2448, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2448, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Human Services,

  
JOHN M. MIZUNO, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSCR 206-12

**Record of Votes of the Committee on Human Services**

Bill/Resolution No.: <b>HB 2448</b>	Committee Referral: <b>HUS, JUD, FIN</b>	Date: <b>FEB 2, 2012</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HUS Members	Ayes	Ayes (WR)	Nays	Excused
1. MIZUNO, John M. (C)	✓			
2. JORDAN, Jo (VC)	✓			
3. BELATTI, Della Au				✓
4. HANOHANO, Faye P.	✓			
5. LEE, Chris				✓
6. MORIKAWA, Dee	✓			
7. WOOLEY, Jessica	✓			
8. YAMANE, Ryan I.	✓			
9. CHING, Corinne W.L.	✓			
10. PINE, Kymberly Marcos				✓
<b>TOTAL (10)</b>	<b>7</b>			<b>3</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: 10pt;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ <div style="text-align: center; font-size: 24pt; font-family: cursive;">GSL</div>				
Distribution:    Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				