

STAND. COM. REP. NO.

2426

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 2713

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 2713 entitled:

"A BILL FOR AN ACT RELATING TO MEDICAID,"

begs leave to report as follows:

The purpose and intent of this measure is to amend sections 346-29.5(b) and 346-37(g), Hawaii Revised Statutes, to clarify that the lien amounts stated in the Notices of Lien produced by the Department of Human Services against real property or for reimbursement of medical assistance or burial costs paid for a recipient shall be presumed to be valid.

Your Committee received testimony in support of this measure from the Department of the Attorney General, the Department of Human Services, and one individual. Your Committee received testimony in opposition to this measure from the Hawaii Association for Justice. Your Committee received comments on this measure from one individual.

Your Committee finds that the lien amount issued by the Department of Human Services in the Notices of Lien have been challenged on numerous occasions in cases where the Department is seeking restitution for medical payments for a Medicaid recipient who was injured by a criminal defendant. Currently, when a lien amount is challenged, the Department of Human Services investigates and verifies that each charge is valid, which is expensive and time consuming.



Your Committee also finds that this measure, as it is currently drafted, presumes that the entire lien amount claimed in the Notice of Lien is valid. This is problematic because the Notice of Lien only contains the total amount claimed and does not include an itemized list of payments. Where the Department of Human Services seeks restitution in connection with criminal sentencing, persons being sentenced may not be fully aware of the nature and extent of the injuries that they caused and the treatments and their associated costs for those injuries.

Your Committee has therefore amended this measure by:

- (1) Adding language to limit the presumed validity of the entire lien amount to cases in which restitution is sought in connection with the sentencing of a third person who has caused injury to a recipient of medical assistance;
- (2) Adding language to require the Department of Human Services to provide the person against whom restitution is sought with a written notice of lien that itemizes payments and includes certain information;
- (3) Adding language to require the entire lien amount to be presumed valid absent a good faith basis contesting the amount or validity of specific line item charges in the lien; and
- (4) Making technical, nonsubstantive amendments 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 S.B. No. 2713, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2713, S.D. 1, and be placed on the calendar for Third Reading.



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


Suzanne Chun Oakland

SUZANNE CHUN OAKLAND, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* SB 2713	Committee Referral: HMS	Date: 2-9-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
GREEN, M.D., Josh	✓			
SLOM, Sam				✓
TOTAL	3	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes