NEIL ABERCROMBIE
GOVERNOR

PATRICIA MCMANAMAN
DIRECTOR

LATE

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

January 31, 2012

TO: The Honorable Ryan I. Yamane, Chair
House Committee on Health

The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2275 - RELATING TO LONG-TERM CARE FACILITIES**

Hearing: Tuesday, January 31, 2012; 10:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of the bill is to establish the Nursing Facility Sustainability Program special fund into which nursing facility sustainability fees shall be deposited and requires the department of human services to charge and collect a provider fee on health care items or services provided by nursing facilities.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports increasing the sustainability of the long-term care services delivery system. The DHS will continue to review the technical proposal.

Provider fees have been widely implemented nationally but are now being increasingly scrutinized by the Centers for Medicare & Medicaid Services (CMS). Preliminarily, this bill raises some concerns about the likelihood of federal approval. Initial concerns include that the Healthcare Association of Hawaii will determine who is exempt from or pays a reduced fee,

misunderstanding of the relationship between approval of fee-for-service fee schedule changes and changes in contracted capitation rates, and the separate rate enhancement and how the enhancement will be paid to providers.

This bill, as drafted, would also prohibit use of the received fees to increase reimbursement for services provided to non-pregnant adult migrants because they are not eligible for federal match. This is also of concern to DHS.

In addition, the DHS does not have the resources or infrastructure to make assessments of total revenue, including non-Medicaid, and collect provider fees. DHS can receive the fees, but should not be assessing, charging, or collecting them.

Lastly, the enhanced revenue from this measure provides the opportunity to help transform Hawaii's health care system such as by increasing reimbursement and thereby access to primary care to prevent hospitalizations, developing hospital on site alternatives to reduce inappropriate emergency room use, and increasing nursing facility reimbursement to reduce the hospital waitlist, in addition to increasing reimbursement for hospitals.

Provider assessments are commonly used to generate revenue for a state by leveraging federal funds through Medicaid. Some of the funding is used to increase provider reimbursement, but the funding can be used for any purpose. For example, if $100 is assessed, the state could keep $50 for itself and use the other $50 to increase Medicaid provider reimbursement which would bring in an additional $50 in federal match. Under this scenario, the provider receives an increased payment of $100 relative to the $100 assessed and breaks even; the state makes $50. Conversely, the same assessed $100 could be used entirely to increase reimbursement to providers, receive $100 in matching federal funds and result in $200 being paid to providers relative to the $100 assessed for a net gain of $100.

Thank you for the opportunity to testify on this bill.

LATE
WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEES ON HEALTH AND HUMAN SERVICES
ON
HOUSE BILL NO. 2275

January 31, 2012

RELATING TO HOSPITALS

House Bill No. 2275 establishes a Hospital Sustainability Program Special Fund into which shall be deposited hospital provider fees which will be used to match federal Medicaid funds to increase Medicaid payments to hospitals.

While the Department of Budget and Finance does not take any position on the policy of establishing a hospital sustainability program, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2275, it is difficult to determine whether there is a clear nexus between the hospital facilities which are assessed fees and the hospital facilities which receive increased Medicaid payments, and it does not appear that the special fund will be self-sustaining.

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HAWAI'I PACIFIC HEALTH
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LATE

Tuesday – January 31, 2011 – 10:00am
Conference Room 329

The House Committee on Health

To: Representative Ryan I. Yamane, Chair
Representative Dee Morikawa, Vice Chair

From: Virginia Pressler, M.D., MBA
Executive Vice President

Re: HB 2275 RELATING TO HOSPITALS - Testimony in Support

My name is Virginia Pressler, Executive Vice President for Hawai'i Pacific Health (HPH). HPH is a nonprofit health care system and the state's largest health care provider, committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four affiliated hospitals, 49 outpatient clinics and more than 2,200 physicians and clinicians. The network is anchored by its four nonprofit hospitals: Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

We are writing in support of HB 2275 Relating to Hospitals which establishes the Hospital Sustainability Program into which hospital sustainability fees shall be deposited. This bill also requires the Department of Human Services to charge and collect a provider fee on health care items or services provided by hospitals effective July 1, 2012, and repealed on June 30, 2013.

Provider fee programs are used in 46 states and the District of Columbia as a means of drawing down additional federal funds to sustain their Medicaid programs. Hawaii is one of only four states without such a program, at a time when state budget deficits are rising due to increasing health care costs and expanding Medicaid rolls. The implementation of a provider fee in Hawaii could assist in stabilizing declining Medicaid payments to facilities and slow down the erosion of access to care for those beneficiaries served by the program.

There are also a number of amendments suggested by the Health care Association of Hawai'i submitted as a proposed HD1 which we also support.

Thank you for the opportunity to testify.

LATE

HOUSE COMMITTEE ON HEALTH
Rep. Ryan Yamane, Chair

HOUSE COMMITTEE ON HUMAN SERVICES
Rep. John Mizuno, Chair

Conference Room 329
January 31, 2012 at 10:00 a.m.

Supporting HB 2275: Relating to Hospitals

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. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 40,000 people. Thank you for this opportunity to testify in support of HB 2275, which creates the Hospital Sustainability Program, which strengthens the financing of hospitals in Hawaii by drawing down federal funds.

Provider fee programs are used in 46 states and the District of Columbia as a means of drawing down additional federal funds to sustain their Medicaid programs. Hawaii is one of only four states without such a program, at a time when state budget deficits are rising due to increasing health care costs and expanding Medicaid rolls. The implementation of a provider fee in Hawaii could assist in stabilizing declining Medicaid payments to facilities and slow down the erosion of access to care for those beneficiaries served by the program.

Provider fees are not taxes, as they are created voluntarily by different categories of health care providers and are collected only from these providers. These fees are not assessed on other organizations, nor on individuals. Provider fees are used in this limited way to draw down federal funds.

The recent closure of Hawaii Medical Centers (HMC) underscores the importance of drawing down federal funds through provider fees to improve Medicaid payments. HMC was forced to close, largely for financial reasons. Medicaid was a factor -- though not the only one -- because Medicaid enrollees represented 20% to 30% of HMC's patient population, and Medicaid payments to hospitals cover only about 70% of actual costs. The Hospital Sustainability Program would raise that figure close to the national average of 89%. This would improve the financial viability of HMC West and make it a more attractive investment for potential buyers.

Medicaid is jointly financed by the states and the federal government. By statutory formula, the federal government pays between 50% and 76% of Medicaid costs incurred by states for care delivered to their Medicaid beneficiaries, based on each state's Federal Medical Assistance Percentage (FMAP). Under federal rules, the state share must be public funds that are not federal funds. The non-federal public funds may come from three sources:

Category 1: Direct appropriations to the state Medicaid agency;
Category 2: Intergovernmental transfers (IGTs); or
Category 3: Certified public expenditures (CPEs).

Provider fees fall under Catetory 1 above. The provider fee program may be utilized by 19 different classes of health care services, including inpatient/outpatient hospital and nursing facility services. Fee programs produce revenues that flow into special funds and are then directly appropriated to the state Medicaid agency in order to draw down matching federal funds for Medicaid covered services.

In the past few years, states have increasingly relied on provider fee revenues to fund their Medicaid programs. This growth is a direct result of the downturn in state revenues during the last two recessions. Provider fees have served as the primary vehicle for maintaining and enhancing Medicaid funding during the last two recessions.

Federal regulations allow states to use revenue from provider fees to help fund Medicaid, as long as they satisfy the following requirements established by the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments (P.L. 102-234):

(1) They must be broad-based. In order to be considered broad-based, a provider fee must be imposed on all the health care items or services furnished by all the non-federal, non-public providers in the class in the state.

(2) They must be uniformly imposed. In general, a provider fee is uniformly imposed if it is the same amount or rate for each provider in the class.

(3) There is a hold harmless prohibition. A fee program may not hold providers harmless. A provider fee is considered to hold the provider harmless if the providers paying the fee receive a non-Medicaid payment from the state or any offset or waiver that guarantees to hold the provider harmless for the fee.

The Secretary of Health and Human Services is authorized to waive the broad-based and uniformity provisions, provided that a state can demonstrate through a quantitative statistical test that its fee program is generally redistributive in nature. This means that the increase in Medicaid reimbursements a provider would receive are not positively correlated to the amount of fees paid by the provider. Obtaining a waiver from CMS permits a state to exempt certain providers from the fee, or reduce their assessment amounts to reduce the financial impact on net contributors (i.e. fee paid is greater than the distribution earned).

In Hawaii a provider fee would increase Medicaid payments at a time when constraints on the State budget have forced a reduction in payments and benefits. The additional federal funds obtained via the fee program would reduce the amount of losses incurred by hospitals and long term care facilities. As such, the provider fee would help to preserve access to health care for the Medicaid population and to preserve our health care system.

This bill creates a provider fee for hospitals. Another bill being considered by the Legislature creates a separate provider fee for nursing facilities.

It should be noted that this bill is still in the process of being finalized. The model for the Hospital Sustainability Program is still being developed because the data required to design it is still being gathered. The data is expected shortly, and at that time the Healthcare Association of Hawaii will propose amendments to the bill. We would like to thank the Department of Human Services and the Hawaii Health Systems Corporation for working cooperatively with the Healthcare Association to complete the model.

In addition to those amendments that will be proposed later, the Healthcare Association would like to propose an HD 1 version of the bill (attached) that includes the following amendments:

1. Authorizes use of the fee to match federal UCC funds if CPEs are not sufficient.
2. Clarifies that the fee shall not exceed 3% of net patient service revenue, as derived from the Medicare cost report ending during SFY 2010.
3. Hospitals pay fee on monthly basis rather than quarterly basis.
4. Provides specific examples of CMS approvals that may be needed.

Thank you for the opportunity to testify in support of HB 2275.

From: Healthcare Association of Hawaii [postmaster@hah.org] on behalf of Paul Bursey [pbursey@icfsnf.com]
Sent: Monday, January 30, 2012 5:20 PM
To: HLTtestimony
Subject: Supporting HB 2275: Relating to Hospitals

LATE

Jan 30, 2012

House Committee on Health

Dear Committee on Health,

Thank you for this opportunity to share my thoughts in support of Supporting HB 2275: Relating to Hospitals.

Provider fee programs are used in 46 states and the District of Columbia as a means of drawing down additional federal funds to sustain their Medicaid programs. Hawaii is one of only four states without such a program, at a time when state budget deficits are rising due to increasing health care costs and expanding Medicaid rolls. The implementation of a provider fee in Hawaii could assist in stabilizing declining Medicaid payments to facilities and slow down the erosion of access to care for those beneficiaries served by the program.

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This bill creates a provider fee for hospitals. Another bill being considered by the Legislature creates a separate provider fee for nursing facilities.

As Administrator of a SNF, it would be important for me to know that all avenues are being explored, by all those who have the authority to make our state health system continue to be vialble for all practictioners.

Sincerely,
Paul Bursey
91-1360 Karayan Street
Ewa Beach, HI
96706-1985

I support HB 2275 with amendments proposed by the Healthcare Association of Hawaii.

Sincerely,

Mr. Paul Bursey
91-1360 Karayan Sterrt
Ewa Beach, HI 96706-1985

morikawa2 - Grant

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 31, 2012 8:44 AM
To: HLTtestimony
Cc: robertscottwall@yahoo.com
Subject: Testimony for HB2275 on 1/31/2012 10:00:00 AM

LATE

Testimony for HLT/HUS 1/31/2012 10:00:00 AM HB2275

Conference room: 329
Testifier position: Support
Testifier will be present: No
Submitted by: Scott Wall
Organization: Individual
E-mail: robertscottwall@yahoo.com
Submitted on: 1/31/2012

Comments: