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TO THE HOUSE COMMITTEE ON  
HEALTH

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Friday, February 11, 2011  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 421 – RELATING TO HEALTH INSURANCE.**

TO THE HONORABLE RYAN I. YAMANE, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department takes no position on this bill which creates a mandated benefit requiring policies of accident and health or sickness insurance to provide coverage for servicing and repairs to motorized wheelchairs and electronic convenience vehicles. The bill also makes it an unlawful practice for vendors of motorized wheelchairs and electronic convenience vehicles to fail to provide customers with on-call repair services at any time of the day or night to service emergency breakdowns.

Mandated benefits help some people, but impose costs on other people. We believe this trade off is best left to the wisdom and sound discretion of the Legislature, following the review by the Legislative Auditor required under HRS section 23-51.

We thank the Committee for the opportunity to present testimony on this matter.

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 11, 2011

The Honorable Ryan I. Yamane, Chair  
The Honorable Dee Morikawa, Vice-Chair  
House Committee on Health

**Re: HB 421 – Relating to Health Insurance**

Dear Chair Yamane, Vice-Chair Morikawa and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 421 which would mandate that health plans cover the repair and servicing of wheelchairs and electronic convenience vehicles. In addition, the Bill makes it an unfair and deceptive practice for vendors not to provide emergency repairs or to provide loaners or rentals of such vehicles during servicing or repairs. HMSA does not take a position on the unfair and deceptive practice provision of the Bill. However, HMSA always opposes unfunded mandated benefits.

While HMSA does not cover regular servicing of wheelchairs, we do cover the repair of such vehicles according to Medicare rules. That said, we continue to believe that prior to passing any new legislation which would mandate health plans to expand benefits, it is prudent to request a study be performed by the Hawaii State Auditor as required under Hawaii Revised Statutes 23-51 and 23-52.

We understand the advocates' and consumers' position on this issue and would like to urge the Legislature to encourage the Hawaii State Auditor to conduct a study on the social and financial impacts that mandating this type of coverage would have. HMSA worked closely on a resolution in 2008 with the Disabilities and Communication Access Board to draft language that would provide a strong assessment of the current state of hearing aid coverage in Hawaii. A similar Resolution could be adopted to provide the State Auditor firm direction to truly examine this issue within the community.

Thank you for the opportunity to testify.

Sincerely,

Mark K. Oto  
Director  
Government Relations



## Hawaii Association of Health Plans

February 11, 2011

The Honorable Ryan Yamane, Chair  
The Honorable Dee Morikawa, Vice Chair  
House Committee on Health

**Re: HB 421 – Relating to Health Insurance**

Dear Chair Yamane, Vice Chair Morikawa and Members of the Committee:

My name is Howard Lee and I am President of the Hawaii Association of Health Plans (“HAHP”). HAHP is a non-profit organization consisting of eight (8) member organizations:

AlohaCare	Kaiser Permanente
Hawaii Medical Assurance Association	MDX Hawai‘i
HMSA	University Health Alliance
Hawaii-Western Management Group, Inc.	UnitedHealthcare

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to provide testimony in opposition to the sections of HB 421 which would mandate health plans cover the cost of repairs and servicing for wheelchairs and electronic convenience vehicles. HAHP takes no position on the remainder of the bill.

With passage of the Affordable Care Act (ACA), the federal government will be requiring that any health plans offered within the health insurance Exchange provide “essential health benefits.” These benefits have not yet been defined and it is unclear at this time if infertility treatment will be considered in the final definition. If a state wishes to have plans operating within the Exchange provide benefits above those considered “essential”, the state will be responsible for the cost of these benefits. The language of the ACA states that:

*If a qualified health plan offers benefits in addition to the essential health benefits required to be provided by the plan, or a State requires a qualified health plan to cover benefits in addition to the essential health benefits required to be provided by the plan, the reductions in cost-sharing under this section shall not apply to such additional benefits*

• AlohaCare • HMAA • HMSA • HWMG • Kaiser Permanente • MDX Hawaii • UHA • UnitedHealthcare •  
HAHP c/o Howard Lee, UHA, 700 Bishop Street, Suite 300 Honolulu 96813  
[www.hahp.org](http://www.hahp.org)

Given the potential liability that the State would be facing by mandating repairs and servicing for wheelchairs and electronic convenience vehicles, and the fact that the ACA is still in flux and the services to be considered “essential” not yet defined, we believe that the state legislature should not increase the scope of any state mandated benefits.

We would also like to recommend that prior to passing any mandated health care benefits, the legislature request the Hawaii State Auditor perform a study to examine the social and financial impacts of the mandate.

Due to our concerns, we would respectfully request that the Committee see fit to hold this measure today. Thank you for the opportunity to offer comments.

Sincerely,

A handwritten signature in black ink that reads "Howard Lee". The signature is written in a cursive style with a large, sweeping initial 'H'.

Howard Lee  
President



## **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

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### **THE HOUSE OF REPRESENTATIVES THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2011**

#### **Committee on Health Testimony in Support of H.B. 421 Relating to Health Insurance**

**Friday, February 11, 2011, 9:00 A.M.  
Conference Room 329**

Chair Yamane and Members of the Committee:

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

The purpose of the bill is to mandate insurance coverage of wheelchair repairs and to make it an unfair and deceptive practice for a dealer to fail to provide emergency repairs or loaners during the servicing period.

We are pleased to see the issue of wheelchairs and their repairs come to the legislature. It actually has been a source of many cases in our office over the years. We have had a lot of clients whose chairs had broken and who either could not obtain servicing of them at all, or who were forced to wait for a four to six week period for the repair. During that time, the person could literally be immobile. Needless to say, there are many individuals with disabilities who are highly, if not totally, dependent upon their wheelchair for the basic mobility that most of us take for granted.

Having stated that, we do have a few questions about the bill. It appears to apply to health insurance providers. We support that certainly. However, a great many of the problems we have seen have been with Medicaid recipients and the coverage or lack thereof under the Medicaid policies and regulations of the state. In addition to issues of

coverage, there have been requirements of prior authorization whereby the dealer would not repair a chair until it received prior approval from Medicaid and Medicaid might not approve the repair until it received certain documentation from the dealer. This bureaucratic process further extended the time during which the individual did not have a functioning wheelchair. We would like to see the bill address procedures under Medicaid as well as any private insurance companies.

We support the provision which requires dealers to provide round the clock servicing and loaners. As noted, an individual could literally be immobile during the time it takes to obtain the repair. This bill makes it an Unfair and Deceptive Practice under 481B of the Hawaii Revised Statutes for a dealer to fail to do so. Inasmuch as the title of the bill is Relating To Health Insurance, there may be some question as to whether this provision extends beyond the title of the measure, inasmuch as it creates penalties upon the dealers that are independent of the issue of whether insurance policies will cover the repairs. We offer that thought for the Committee's consideration of whether another measure might provide a more suitable vehicle.

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

February 11, 2011

Representative Ryan I. Yamane  
Chairman, Health Committee

Aloha Committee Members:

Please accept my letter, which is in support of HB 421, and I apologize for not being able to testify in person, but the early morning hearing schedule prohibits me from attending.

I am a person with disabilities, afflicted with Muscular Dystrophy, a debilitating neuromuscular disease, which causes atrophy beginning with the major, larger muscles in the arms and legs, before spreading to smaller and internal muscles that control organ functions.

With my utmost and sincere respect to each and every committee member, I have one question, which is:

*"If your automobile breaks down in the middle of the night, and needs to be towed to a repair shop, who do you call?"*

Most people would be able to call AAA, or some sort of 24/7 emergency road service. Their automobile can be repaired in a timely manner, in most cases less than two weeks.

Now, consider people with disabilities, who are totally disabled, dependent on their wheelchair, rely on it as their legs, and their only way of mobility. If their power wheelchair breaks down and needs to be towed and repaired, there are no services available. We would need to deal with finding someone to pick up our wheelchair, as well as find a ride home, and wait till normal business hours to schedule a repair.

In addition to all of this, we must physically struggle and wait with the delay of the repair. The delay is because of the "red tape" with insurance companies' policies & procedures on how a repair of a power wheelchair is to be processed. **Personally, it took 12 weeks for my power wheelchair to be repaired.**

Speaking with people in the industry, there are several problems that caused this situation. First, the reason why businesses don't have a 24/7 emergency road service for power wheelchairs is because they are required to get pre-approval prior to providing service and will not be reimbursed by insurance companies doing business in state if service is provided without pre-approval.

These are the current steps and procedures for repairing a power wheelchair:

1. Submit reasons and justification for the repair of the power wheelchair, along with a prescription from the patient's doctor. (There is no time limit as to how long businesses may take to submit request.)
2. Insurance companies doing business in state reviews request and either approves or disapproves. (There is no time limit as to how long insurance companies may take to make determination.)
3. Upon approval, part(s) can be ordered. (There are no requirements as to how parts are to be shipped if not available locally.)
4. Upon receipt of part(s), schedule an appointment to repair power wheelchair. (There is no time limit as to how long vendor may take to complete repair once parts are available.)

The current form of the proposed bill is vague and does not require insurance companies doing business in state to be responsible. As an amendment to HB 421, I propose to:

1. Require businesses to have a 24/7 emergency road service for power wheelchairs.
2. Establish a time limit for writing justification and submitting request to insurance companies doing business in state; establish a time limit for insurance companies to review request; and establish a time limit for repairing power wheelchairs.
3. Require businesses to ship part(s) "Overnight" to its location, if it's not available locally.
4. Require insurance companies doing business in state to reimburse the cost of emergency road service, the repair and for part(s) shipped "Overnight".
5. Classify an inoperable power wheelchair as a "Mobility Emergency".
6. Re-classify a power wheelchair as an "Out Bound" rather than a "Homebound" Durable Medical Equipment.
7. Classify a "Mobility Emergency" similar to an "Emergency", thus eliminating the "red tape" of obtaining pre-approval.
8. Adopt and add the terminology "Mobility Emergency" to the insurance companies guidelines, or any other terminology that would identify a repair of a power wheelchair as an emergency.

My humble plea is to consider these issues, addressed and fix the problem we face. Thank you so much for your time and consideration in this urgent matter.

Sincerely,

Glenn S. Nakamura  
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*"At the foundation of our society is the ability to live independently and move freely." "This freedom is no less important to people with disabilities."*

Thomas E. Perez, Assistant Attorney General of the Civil Rights Division