



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Ways and Means

S.B. 2145, SD1 Relating to Mental Health

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

February 29, 2012

1 **Department's Position:** The Department of Health (DOH) offers comments on this bill for the
2 Committee's consideration.

3 **Fiscal Implications:** An additional consideration is the implication of full implementation of this bill
4 on the number of individuals served by the department. Estimates of the number of individuals who
5 have the eligible diagnoses described in this bill are between 1%-2% of the adult population of Hawaii.
6 Based on the 2010 U.S Census figures, there are approximately 1,000,000 adults over age 18 in our
7 state. Based on those prevalence rates, 1%-2% of the adult population may be expected to have a
8 qualifying condition as described in third bill, which is between 10,000-20,000 people. If full
9 penetration for services (serving the number of individuals in the state who have a qualifying condition)
10 was achieved, expenditures for services at the FY 2008 rate of \$10,300 per consumer per year may
11 actually be in the range of \$100-\$200 million dollars per year.

12 **Purpose and Justification:** The DOH offers comments on this bill for the Committee's consideration.
13 Fiscal year 2008 was the year before the department implemented modifications to its eligibility criteria
14 and experienced expenditure restrictions. That year, overall average annual expenditures for services
15 provided by the Adult Mental Health Division (AMHD) were approximately \$10,300, per consumer and

Promoting Lifelong Health & Wellness

1 about 2,200 new consumers were deemed eligible for services. Over the following 4 years, eligibility
2 criteria were narrowed to a smaller cluster of conditions with psychosis as the prominent symptom, such
3 as Schizophrenia and Bipolar Disorder. In fiscal year 2011, the second year of the new criteria, annual
4 expenditures were about \$5,200 per consumer and 1,000 new consumers became eligible for services.

5 Expanding eligibility would increase the number of consumers meeting the criteria by
6 approximately 1,100 per year, back to the previous level, as based on FY 2008 and FY 2011 data.

7 An increase of 1,100 consumers entering each year would result in an annual increase of
8 expenditures for the DOH. The increase is likely to be in the vicinity of \$6 million dollars each year.
9 That number is calculated by multiplying the estimated additional number of consumers who would
10 enter the system under the previous eligibility criteria by the average annual expenditure per consumer
11 receiving AMHD services in FY 2011. It is understood that there are reasons consumers become
12 eligible other than diagnosis, so these figures are estimates.

13 The annual increase in expenditures will be additive, as individuals remain in services for an
14 extended period of time. The dollar amount will increase proportionally each year by the number of
15 new consumers entering combined with those continuing services, less the expenditures for those
16 discharged or leaving the system. So, the amount of increased appropriation would be expected to
17 increase by a proportional amount each subsequent year.

18 If this bill was enacted and expanded eligibility for the qualifying conditions described without a
19 proportional increase of the budgeted appropriation available to fund it, there would likely need to be a
20 decrease in the amount of services each eligible consumer receives. Looked at another way, the number
21 of individuals receiving services would increase, but the amount of services those eligible individuals
22 receive would decrease, proportional to the budgetary increases appropriated to fund the services.

23 As a final comment, the department is concerned that establishing eligibility criteria for
24 operations by statute, while well intended, creates a mandate which will bind future operational

1 decisions. Future financial resources, as has been seen in the last four years, may be very different from
2 today. New statutory mandates may result in compliance challenges for the department in the future if
3 incremental annual budget increases are not sustained.

4 Thank you for the opportunity to testify on this bill.



HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE SENATE THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2012

Committee on Ways and Means Testimony in Support of S.B. 2145, SD1 Relating To Mental Health Wednesday, February 29, 2012, 9:15 A.M. Conference Room 211

Chair Ige and Members of the Committee:

The Hawaii Disability Rights Center is in strong support of this bill, which restores a wide range of mental health diagnoses as qualifying for eligibility for AMHD services.

Our agency has had a lot of concerns regarding changes in services and programs of the Adult Mental Health Division over the past several years. There has been reduction after reduction in services provided to individuals with mental illnesses. That included the elimination of services such as the ACT teams and the drastic reduction in the number of case management hours. In the larger picture, it is clear to us that ever since the Department of Health was deemed to be relieved from the provisions of the Consent Decree in the case brought by the Department of Justice, (USA v. State of Hawaii, Civil No. 91-00137) there has been a constant "backsliding" in the effort by the state to comply with the terms of the Decree.

In many respects, the final blow, so to speak, occurred in July, 2009, when the Department of Health unilaterally eliminated several psychiatric diagnoses as qualifying for eligibility for services. These diagnoses had been developed as part of the consent decree and were an Attachment to the Plan for Community Mental Health. As a result of the Department's internal action, diagnoses of anxiety disorders and personality disorders were eliminated as diagnoses which qualify an individual to receive AMHD services. This has resulted in some seriously mentally ill individuals not being able to obtain any assistance for their mental health needs.



We always felt that this action was not only bad policy, but also procedurally failed to comply with legal requirements. The eligibility guidelines for AMHD services should have long ago been developed through the rulemaking process. Clearly, the elimination of eligible diagnoses should have been addressed in that fashion. This would have allowed for public input so that the Department could have received information from professionals in the community as to the effect these policy changes would have on mental health consumers and providers. Despite an official request from us when we met with DOH officials to ask that a rulemaking hearing be held, the Department failed to act until HDRC filed a lawsuit in the Circuit Court, claiming that the Department was in violation of the Hawaii Administrative Procedure Act. The lawsuit was filed as a class action, and sought for relief to have the eligibility policies invalidated on the basis that they were improperly adopted and should have been promulgated as rules. The suit also sought to restore the eligibility of all individuals who would have been eligible under the prior guidelines, as well as remedial relief and services for those individuals wrongfully denied.

Subsequent to the commencement of the litigation, the Department implicitly acknowledged the validity of the argument because they then scheduled a hearing to promulgate rules. However, the hearing that was held was a bit of a sham in that despite the fact that the testimony unanimously opposed the rules, the Department hurried the process and literally promulgated them and had them signed on the last day of Governor Lingle's term.

As to the underlying issue of the elimination of the eligible diagnoses themselves, it really is an artificial distinction to say that only those individuals with what the Department terms a "Serious and Persistent Mental Illness" (SPMI) diagnosis should receive help, while all others are excluded. This narrow universe effectively excludes many individuals who may REALLY need services that can be provided by AMHD. This is not just the receipt of psychiatric care, but all the attendant services that come as a benefit to being eligible for AMHD. This would include case management; the supported housing opportunities, such as independent apartments or group homes; and admission to the clubhouse program. All these benefits are available only to those in the AMHD system.

We had hoped that the new Administration, which took office on December 6, 2010 would have revisited this ill advised policy and opened up AMHD eligibility to a larger, more inclusive group of individuals. Certainly the Governor gave indications of that during a specific "talk story" session held on the issues of mental health during the campaign. However, to date, they have taken no action in that direction and seem content to have thousands of fewer individuals in their system.

For these reasons, we thank the Legislature for advancing this measure. This bill will statutorily supersede the administrative rules and open up eligibility to many individuals who need, but are not receiving, services. To the extent that additional resources may need to be allocated to the Department, we very much support the amendment in this SD1 version which adds an appropriation clause for that purpose.

We also support the amendment in the SD1 which addresses an anomalous situation currently created by AMHD and their new rules. In addition to the restrictive list of diagnoses, an individual is not eligible for AMHD services if they have any insurance. On the surface this may seem reasonable and when it was first presented to the public it appeared to make sense, inasmuch as if someone has private insurance which can pay for their medical or psychiatric needs, the state should certainly be the payer of last resort. We support that very much. However, while private insurance or even QUEST or Quest Expanded Access may cover the cost of psychiatric care, frequently those policies do not cover the other services offered by AMHD. This rule results in an arbitrary, irrational situation whereby an individual who otherwise has a severe and persistent mental illness will not receive any services from the adult mental health division (such as case management, clubhouse or supported housing) simply because they happen to have private insurance, notwithstanding the fact that the private insurance they possess does not cover those services they may be seeking.

A vivid example is the clubhouse program, which happens to be one of the most economical of all services provided. In addition to being very cost effective, it also provides what may be the only socialization that some mental health consumers ever receive. It is a lifeline and a portal to the rest of the world. It is also a program that is rarely, if ever, covered by private insurance. So, this means that someone could have a very serious persistent mental illness and even have one of the very serious, restrictive diagnoses now required for eligibility and yet not be able to attend the clubhouse because they also have private insurance. We have specific clients in that situation. The mere possession of private insurance will automatically disqualify the individual for any AMHD eligibility. The fact that the insurance does not cover the clubhouse or any other ancillary AMHD services is irrelevant under the current AMHD rules. It is an automatic disqualification, regardless of whether it covers the service the individual is seeking.

This is absurd, and without any logical basis. For that reason, the essence of the amendment added into the SD1 is to continue the practice that the state will be the payer of last resort, but to provide that if someone otherwise has a qualifying diagnosis, they are eligible to receive services provided by AMHD that are not otherwise covered by any insurance policy held by them or on their behalf.

It is our hope that this session, the Legislature will take action as may be appropriate to ensure that the mental health consumers of our state receive the appropriate care and treatment to which they are legally entitled. This bill will go a long way towards restoring services for many of these individuals and we strongly urge the legislature to support this effort.

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

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: tjdavies@juno.com
Subject: Testimony for SB2145 on 2/29/2012 9:15:00 AM
Date: Monday, February 27, 2012 3:21:48 PM

Testimony for WAM 2/29/2012 9:15:00 AM SB2145

Conference room: 211
Testifier position: Support
Testifier will be present: No
Submitted by: T.J. Davies
Organization: Kokua Council & AARP 60
E-mail: tjdavies@juno.com
Submitted on: 2/27/2012

Comments:

From: [Cathy Lewis](#)
To: [WAM Testimony](#)
Cc: [Bud Bowles](#)
Subject: Bill SB2145SD1
Date: Tuesday, February 28, 2012 8:14:15 AM

Please restore the eligibility criteria used by AMHD to the pre-cutback standards. This is important for a healthy society in our wonderful state taking care of all it's citizens.

Thank you
Cathy Lewis, Social worker , retired DOH AMHD
Sent from my iPad

From: [Fairyn C. Rain](#)
To: [WAM Testimony](#)
Subject: SB2145 SD1
Date: Monday, February 27, 2012 7:40:04 AM

Dear friends,

We need access to mental health care so very much in this (and every) state of the union. We have got to have support for those of us mentally challenged. If I had not been able to have help from the state myself I would be at the very least incarcerated and it would be a good part the state responsible for not giving treatments that I needed to get better and begin to recover myself. I want you to support bill SB2145 SD1 in favor of this much needed support for our community.

Thank you very much.

Fairyn Rain

From: [chief gator](#)
To: [WAM Testimony](#)
Date: Monday, February 27, 2012 12:11:19 PM

This is in reference to SB2145 Sd1. My name is Mark Yanagida. I had a case worker from Oct 2008 to Dec 2008. The then Governor cut the funds and I lost my case worker. I have severe PTSD from Vietnam. I have panic attacks, anxiety attacks, flashbacks of the Vietnam conflict, nightmares, Fears of someone or something harming me. The case worker would come and give me a shoulder to cry on, listen to my problems. I've gotten worse since losing my case worker. There's no one to talk to. HMSA does not provide case workers. Please restore the case workers. Please take out the clause "anyone with their own HMO (HMSA) is ineligible" for State case workers. HMSA does not provide case workers. Please take out the clause "PTSD is no longer a qualifications for mental help care". My psychiatrist says PTSD is every bit a mental health issue. I been seeing a psychiatrist since 1974, I fought for my country, please give me back my case worker. I am suffering. All my records are documented with the Kailua Mental Health Clinic and my present psychiatrist. Thank you. Mark Yanagida.

**Suite 201, 3549
1750 Kalakaua Ave
Hon, HI 96826
Cell: 389-6230**

From: [D.M.Chung](#)
To: [WAM Testimony](#)
Subject: need for SB2145 SD1
Date: Sunday, February 26, 2012 10:18:50 PM

hi, i believe it is important to adopt the changes presented in this bill. while my personal diagnosis is of bipolar/schizoffective, i have also had periods of depression and currently suffer from anxiety as well. i know others who only have anxiety and/or depression, and they would not be able to receive services if this bill does not pass. let me tell you that any experiences with anxiety/depression are debilitating and the person is suffering. often these conditions are treatable, and need to be provided by an agency, especially since so many people in this position do not have many options or are not aware of them.

thank you,
mike chung

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: Brenda.Kosky@gmail.com
Subject: Testimony for SB2145 on 2/29/2012 9:15:00 AM
Date: Monday, February 27, 2012 8:41:26 AM

Testimony for WAM 2/29/2012 9:15:00 AM SB2145

Conference room: 211
Testifier position: Support
Testifier will be present: No
Submitted by: Brenda Kosky
Organization: Individual
E-mail: Brenda.Kosky@gmail.com
Submitted on: 2/27/2012

Comments:

Yes please, we have just barely survived these cuts thru sheer grit. Please, these people left behind need more help than just what a consumer advocate is able to do for them. The cuts were devastating to so many, please these are persons where life is so deeply hard for them, in the battle of the mind. We as a society need to be there for them. To have cut them off may have been a wicked need that had to be made at the time. Now, lets make it right. So many voices unheard, but to also be uncovered by medical help is shameful. I support making this right as I know you all also know the right thing needs to be done. God Bless your day and your vote! Aloha & Mahalo, Brenda Kosky