Healthcare Association of Hawaii

SENATE COMMITTEE ON WAYS AND MEANS
Senator David Ige, Chair

Conference Room 211
February 28, 2012 at 9:00 a.m.

Supporting SB 2466 SD 1: Relating to Long-Term Care Facilities

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 SB 2466 SD 1, which creates the Nursing Facility Sustainability Program, which strengthens the financing of long term care 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. I must emphasize that supporting access to care via this program can only be accomplished if it is implemented in the manner supported by the Health Care Association and its members.

Provider fee programs use NO state funds and no taxpayer funds. The funds to draw down federal funds are those of the long term care facilities. These organizations will have to pay an up front assessment and as such they will be draining what little, if any, funds they have in reserve to utilize this program. But the current situation is so dire that these providers are willing to take the risks involved with implementing a provider fee program.

Why do I say that there is a risk involved? Besides the cash flow issue this could cause for some facilities there is a risk that the Department of Human Services will ask for more than the 5% administrative concession to the state currently contained in the bill. This concession is to recognize any administrative burden that DHS may incur in supporting the program. Although we are still finalizing our model, 5%of the long term care sustainability program would likely net the state between $500,000 and $750,000 which, if used for Medicaid services, would be eligible for a federal match thus netting the state between $1 million and 1.5 million total. The MedQuest Director has stated that two full time employees would be needed to administer the program. This would be more than enough funding to hire two FTEs.

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

Besides helping existing long term care facilities, the Nursing Facility Sustainability Program could enhance the creation of new long term care facilities. For example, if reopened, the Hawaii Medical Center East facility, could be repurposed as a nursing facility. If this occurred it

is likely that a substantial proportion of its residents would be Medicaid enrollees since Medicaid enrollees represent about 70% of the total population of all Hawaii nursing homes. However, nursing facilities are losing $7 to $8 per day on each Medicaid resident. If a provider fee program were implemented in the manner supported by the Healthcare Association of Hawaii, Medicaid payments would be increased to a level that is closer to the actual cost of care. This increase would make the Hawaii Medical Center East facility more attractive to a potential purchaser.

It should be noted that the Healthcare Association of Hawaii continues to discuss this bill with the Department of Human Services and other interested parties, each of which has a different perspective. As such, the Association may request amendments to the bill in the near future. Meanwhile, the Association urges the committee to pass the bill so that it remains under consideration in the legislative process.

Thank you for the opportunity to testify in support of SB 2466 SD 1.