

**LATE  
Testimony**

March 12, 2012

**TO: The Honorable John Mizuno, Chair  
House Committee on Human Services**

**FROM: Jodie Hagerman  
Pacific Renal Care Foundation**

**SUBJECT: S.B. 2713 SD1 - RELATING TO MEDICAID  
Monday, March 12, 2012; 8:30 a.m.  
Conference Room 329, Hawaii State Capitol**

**TESTIMONY IN SUPPORT WITH AMENDMENT**

Dear Chair Mizuno:

The Pacific Renal Care Foundation supports S.B. 2713 SD1 relating to Medicaid subject to the following amendment:

SECTION 4. Hawaii Medicaid, Hawaii QUEST and any contractors therewith or successors (collectively "Medicaid") shall refrain from modifying reimbursement policies and guidelines without providing a 90 day prior written notice of such change to any affected health care provider. In no event shall any such change be applied retroactively if prior approval for reimbursement was obtained.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

We are requesting for this amendment to protect health care providers from the volatile reimbursement environment surrounding Medicare and Medicaid. Lien cases may take substantial time to resolve and in that timeframe, policy changes may occur which may be disadvantageous to providers. The amended language provides adequate notice of those changes and affords providers to be reimbursed at agreed-upon rates through a prior approval process with Medicaid.

RELATING TO MEDICAID.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that the lien amounts stated in the department of human services' notice of lien have been challenged on numerous occasions in cases where the department is seeking restitution.

The purpose of this Act is to clarify that the lien amount stated in notices of lien sent by the department of human services for reimbursement of medicaid benefits shall be presumed to be valid under certain conditions.

SECTION 2. Section 346-29.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department may also place a lien against the real property of any recipient receiving medical assistance who is an inpatient in a nursing facility, intermediate care facility for individuals with intellectual disabilities, or other medical institution, after a state determination, pursuant to notice and hearing requirements of chapter 91, that the recipient cannot reasonably be expected to be discharged from the medical

institution and returned home.

When restitution is sought in connection with the sentencing of a third person who has caused injury to a recipient of medical assistance, the department shall provide to the person against whom restitution is sought a written notice of lien and an itemized list of payments that identifies the provider of services, the dates of services, amounts billed, amounts paid, and dates of payments. Absent a good faith basis contesting the amount or validity of a specific line item charge or charges in the lien, the entire amount shall be presumed to be valid in determining the amount of restitution.

There is a rebuttable presumption that the recipient cannot reasonably be expected to be discharged from the facility and return home if the recipient or a representative of the recipient declares that there is no intent to return home or if the recipient has been institutionalized for six months or longer without a discharge plan.

- (1) The department may not place a lien on the recipient's home if the recipient's:
  - (A) Spouse;
  - (B) Minor, blind, or disabled child; or
  - (C) Sibling who has an equity interest in the home and

who was residing in the home for a period of at least one year immediately before the date of the recipient's admission to the medical institution; is lawfully residing in the home.

(2) The department shall not recover funds from the lien on the recipient's home when:

(A) A sibling who was residing in the home for a period of at least one year immediately before the date of the recipient's admission to the medical institution; or

(B) A son or daughter who was residing in the recipient's home for a period of at least two years immediately before the date of the recipient's admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to the recipient which permitted such recipient to reside at home rather than in an institution;

lawfully resides in the home and has lawfully resided in the home on a continuous basis since the date of the recipient's admission to the medical institution.

(3) The department also shall not recover funds from the

lien if the recipient has a surviving spouse; or surviving minor, blind, or disabled child.

- (4) Any lien imposed with respect to this subsection shall be dissolved upon the individual's discharge from the medical institution and return home."

SECTION 3. Section 346-37, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) The lien of the department for reimbursement of costs of medical assistance or burial payments under subsection (f), shall attach by a written notice of lien served upon the claimant's attorney or upon the third person, the third person's agent, attorney, or insurance company. The method of service shall be by certified or registered mail, return receipt requested, or by delivery of the notice of lien personally to the individuals referred to. Service by certified or registered mail is complete upon receipt. The notice of lien shall state the name of the injured, diseased, or deceased person, the amount of the lien, and the date of the accident or incident which caused the injuries, disease, or death which necessitated the department's medical assistance or burial payments. If the notice of lien is served upon the claimant's attorney, the notice of lien shall state that the claimant's attorney shall pay the

full amount of the lien from the proceeds of any judgment, settlement, or compromise based on the incident or accident. If the notice of lien is served upon the third person, the third person's agent, attorney, or insurance company, the notice of lien shall state that the third person shall pay the full amount of the lien prior to disbursing any of the proceeds to the claimant or to the claimant's attorney. A notice of lien may be amended from time to time until extinguished, each amendment taking effect upon proper service.

When restitution is sought in connection with the sentencing of a third person who has caused injury to a recipient of medical assistance, the department shall provide to the person against whom restitution is sought a written notice of lien and an itemized list of payments that identifies the provider of services, the dates of services, amounts billed, amounts paid, and dates of payments. Absent a good faith basis contesting the amount or validity of a specific line item charge or charges in the lien, the entire amount shall be presumed to be valid in determining the amount of restitution."

SECTION 4. Hawaii Medicaid, Hawaii QUEST and any contractors therewith or successors (collectively "Medicaid") shall refrain from modifying reimbursement policies, guidelines, interpretation or positions adopted by Medicaid or any agent, whether formally or informally, in writing or orally, without

providing a 90 day prior written notice of such change to any affected health care provider. In no event shall any such change be applied retroactively if it would have the effect of reducing reimbursements previously made to such health care providers if prior approval for reimbursement was obtained.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.



**ADULT FOSTER HOMECARE**  
**ASSOCIATION OF HAWAII**

P.O. Box 970092, Waipahu, Hawai'i 96797

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**Testimony**

March 12, 2012

**Thelma Ortal**  
President  
*Adult Foster Homecare  
Association of Hawaii*

**Lani Akee**  
Immediate Past President  
*Adult Foster Homecare  
Association of Hawaii*

RE: **SB2713 SD1 – Testimony in Strong Support – HUS 3/12/11 – Rm. 329 8:30 a.m.**

Dear Chair Mizuno, Vice Chair Jordan, and Members of the Finance Committee:

We **strongly support SB2713** relating to Medicaid. In addition to the existing provisions, we request that Community Care Foster Family Homes (CCFFHs or foster homes) be afforded at least six (6) months to find a Medicaid client before an existing private-pay client is removed from the foster home, subject to certification by a physician or equivalent medical professional that such transfer shall cause trauma. We further request that substitutes need only be a minimum age of 18, notwithstanding any other state law.

First, CCFFHs are committed to providing quality care and, given the current state of the industry, must be given additional time to find a client, even where only one private pay remains in the home. Many residents become emotionally attached to their caregiver and the caregiver's family. Involuntary transfer often causes transfer trauma, which may give rise to claims on the part of the resident/client.

It is much harder now to find suitable resident client on Medicaid, so we need more time to find a suitable client on Medicaid. Sometimes, it takes many months before we can find a suitable client.

Second, we continue to experience a lot of trouble in finding substitutes. Currently, homes with 3 clients must only use substitutes 21 or older. If anyone has been into the Meanwhile, homes who have only 2 clients need not provide ???

For these reasons, we **strongly support HB 739**.

Very truly yours,

Thelma Ortal  
President

About AFHA

The Adult Foster Home Association of Hawaii (AFHA) is the industry trade association of providers under the Community Care Foster Family Home program under the Department of Human Services, State of Hawaii. With a membership of almost 750 providers, AFHA's mission is to promote the interests of providers as well as resident clients. AFHA members provide 24-hour care to resident clients 7 days a week, 365 days a year.

REP. JOHN MIZUNO

TESTIMONY FOR SB 27-13

03/11/12

**HANDIVAN**

1. **Priority Dialysis patients.**

There should be assigned handivans to pickup only dialysis patients transporting to and from dialysis appointment, and return straight home after dialysis, not pickup other people who are going shopping or are having lunch with friends and relatives or going to Waikiki or other places. We do not want to travel around town before going home. Most of the time we are hungry and don't feel well. Sometimes it takes us 2 to 3 hours before we get home after dialysis.

2. We do not appreciate being told fibs when we call in to find out if handivan will be on time after dialysis and to find out the handivan number. Example of fibs are "the handivan is just down the street" but it takes an hour or more for the handivan to arrive. When we ask the driver how come it took so long for him to pick us up he says he came from his normal country route. They called him to pick us up. Another such example is the handivan is at Kuakini Hospital and should be there soon (5 minutes) after 45 minutes or so the van shows up to pick us up. There are many more but I will not mention them. It would be nice to be told the truth instead of fibs when we call after dialysis. We can tolerate the wait or can call a family member to pick us up if we are not feeling well.

3. We were told we would have the same driver picking us up in the morning starting in January, 2012 but we were just informed this will not happen until March 2012 and it still has not happened. We have drivers who are familiar with the country route and are told to pick us up and are not familiar with the city route and must follow their GPS and takes the long way to pick us up. They must be told what road to take for the shortest route.

4. In the morning three dialysis patients are picked up at their homes. All three have a 4:30am pickup time. How can the driver pick up all three of us at 4:30am. The driver leaves to pick us up between 4:20 and 4:30am. Most of the time he arrives to pick one of us up at 4:40am, The next person at 4:50 or later and the last person after 5:00am. We have ask the driver how come they are late and are told he is given the key to the handivan at 4:15am or later. He says he starts work at 4:00am but he cannot leave until he is told to. If the driver leaves at 4:15 or earlier he can pick all of us up before 4:40am. We have several drivers who leave at 4:15am and have picked all of us up before or at 4:40am.

5. The mid morning pickup is not very sensible. In the early morning one handivan picks up three dialysis patient but, the mid morning pickup has three different handivan picking each of us individually most of the time. I believe this is a waste of money on gas and payroll since we are all heading in the same direction.

6. Since we all have a regular schedule I don't understand why we are not picked up on a timely basis every Monday, Wednesday and Friday. Our schedule is the same every week.

In closing, any help you can give us will be greatly appreciated.

Herbert Uyehara 1819C Waiola Street Phone number: 808-265-3830

Tino M. Ioane 1677 Thurston Ave Apt. F Phone Number 808-223-9588

Joe Kahele 845 University Ave #101 Phone Number: 808-947-6819

Rochelle Chip 747 University Ave #204 808-744-0662