Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

April 4, 2012

The Honorable Marcus R. Oshiro, Chair
The Honorable Marilyn B. Lee, Vice Chair
House Committee on Finance

Re: SB 2798, SD1 – Relating to Insurer Requirements

Dear Chair Oshiro, Vice Chair Lee and Members of the Committee:

The Hawaii Medical Association (HMSA) appreciates the opportunity to comment on SB 2798, SD1 which would require plans to submit quarterly reports on our members to the Department of Human Services (DHS).

We truly understand the need to ensure that government-funded health care services are only being provided to those in need. We also understand that there are instances in which a QUEST member may be able to receive coverage under both a QUEST plan and through private coverage. Under these dual coverage situations, the commercial plan serves as the primary payer and should cover most of the health care services, and the QUEST plan serves as the secondary payer. These eligibility determinations are made by the Med-QUEST division and not the contracted plans. Given the need to ensure appropriate reimbursements from Med-QUEST, we already provide DHS reports on our claims data for our dual eligible members which may be used to analyze the appropriateness of reimbursement s afforded us.

MedQUEST suggests that having direct access to data from all plan membership files may make this process more efficient. As originally proposed in SB 2798, SD1, however, we have grave security concerns that would arise with the electronic transfer of member ship data to DHS. We specifically have concerns over the antiquated eligibility system currently used by Med-QUEST. With the support from the 2011 Legislature, DHS is able to leverage federal matching funds to update these systems, and that may provide a long-term solution to the security concerns.

That said, we have been in discussions with DHS regarding a possible interim solution. Those discussions resulted in the attached draft proposed HD1 version of SB 2798.SD1. Under this proposed draft, beginning in calendar year 2014, the plans will transfer data through a secured system to a third party entity mutually agreed to by the plans and DHS. That third party entity will perform the necessary matching in a secured environment and transmit a report back to DHS.

Since DHS will be paying for the third party entity, it must be procured under the State procurement code. However, the plans will participate on the evaluation panel to select the third party entity.

We believe that this may be an acceptable and workable solution, and we would support such an amendment. However, we must emphasize that the this will be effective beginning calendar year 2014, allowing for the State's procurement process and time for the plans to prepare for the implementation of this statute.

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to comment on this legislation. Thank you.

Sincerely,

Jennifer Diesman
Vice President, Government Relations
Attachment

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THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2798 S.D. 1 DHS PROP H. D. 1

A BILL FOR AN ACT

RELATING TO INSURER REQUIREMENTS.

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

SECTION 1. When Congress passed the Deficit Reduction Act of 2005, P.L. 109-171, it made a number of amendments to the Social Security Act intended to strengthen states' ability to identify and collect from liable third party payors that are legally responsible to pay claims primary to medicaid.

To ensure the State's compliance with the requirements of P.L. 109-171, the legislature passed Senate Bill No. 917, enacted as Act 103, Session Laws of Hawaii 2009, and codified in chapter 431L, Hawaii Revised Statutes.

Federal and state statutes require that medicaid be the payor of last resort for health insurance. To meet this obligation, the department of human services, as the state medicaid agency, requires information on medicaid recipients who also have commercial health insurance.

Section 431L-2.5, Hawaii Revised Statutes, requires the health care insurer to share information on an individual basis at the State's request. This Act will require all commercial health care insurers operating in Hawaii to also share with the department of human services**, through an independent entity,** a listing of their members on a quarterly basis. Quarterly reports will allow the department to determine on a timely basis the eligibility of persons who apply for medicaid and to determine the continuing eligibility for persons receiving health care insurance through the medicaid program.

Medicaid allows passive renewal and self-declaration to facilitate eligibility, which makes it difficult for the department to determine when a recipient's eligibility status has changed because of employment, increased income, or being provided health coverage under the prepaid health care act.

In the current economic climate of decreased state revenues and the unfortunate necessity of reducing medical assistance benefits, identifying areas to decrease expenditures with minimal impact on the public becomes increasingly important. The senate committee on ways and means stated in Standing Committee Report No. 3033, Regular Session of 2010, that "the State's economic difficulties threaten the provision of human services under many state programs. Your Committee finds that, despite budget cuts and realignments, it is important to maintain the level of services that are provided to the neediest populations in the State."

While it is important for the state to receive such information on a timely basis, the security and privacy of the transmitted health care information must be ensured. To that end, transmitting such private information through an independent, highly secured data messaging and transmission system is necessary. Subsequently, this Act provides for any individual's information submitted by health care insurers, to ensure that State medical assistance programs are the payer of last resort, only be transmitted through a third party entity. Due to need for health plans and the State to cooperate and collaborate on this effort, health care insurers will participate in evaluating the qualifications of potential third party entities.

The purpose of this Act is to require all commercial health care insurers operating in Hawaii to share with the department of human services, on a timely basis **and through an independent entity**, a listing of their members for **the state to have accurate information on third party liability for its medical assistance recipients**[**medicaid eligibility determination**]. This will improve medicaid program integrity and ensure that medicaid is the payor of last resort[**and that funding for the Medicaid program is used to provide health insurance coverage to those who really need it**].

SECTION 2. Section 431L-2.5, Hawaii Revised Statutes, is amended to read as follows:

"[[]§431L-2.5[]] Insurer requirements. Any health insurer as identified in section 431L-1 shall:

(1) Provide,[**with respect to individuals who are eligible for, or are provided, medical assistance under Title 42 United States Code section 1396a(section 1902 of the Social Security Act), as amended]** upon the request of the State, information **for all of its members** to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage that is or was provided by the health insurer, including the name, address, and identifying number of the plan in a manner prescribed by the State;

(2) **Beginning in calendar year 2014,**[P]**p**rovide to [the State]**an independent, third party entity at a frequency no more frequent than [a]**quarterly, a report listing its members. **The third party entity shall match this file with one provided by the department and provide the department with third party liability information for medical assistance recipients. The department shall determine the minimum data required to ensure the validity of matches, which may include name, date of birth, and social security number as available. The information provided by the health insurers to the third party entity shall not be used for any purpose other than that specified in this chapter. The department shall provide for representation by health care insurers in evaluating the qualifications of potential third party entities and determining the minimum data fields for matching.[for a cross-reference check of prospective and current Medicaid beneficiaries. To ensure the validity of beneficiary matches, the minimum data required to be included in each report may include first and last name, date of birth, and social security number. The data fields and electronic format of the member listing shall be determined by the department of human services]**.

[~~(2)~~] (3) Accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for a health care item or service for which payment has been made for medical assistance

under Title 42 United States Code section 1396a (section 1902 of the Social Security Act);

[(3)] (4) Respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service; and

[(4)] (5) Agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

(A) The claim is submitted by the State within the three-year period beginning on the date on which the health care item or service was furnished; and

(B) Any action by the State to enforce its rights with respect to the claim is commenced within six years of the State's submission of the claim."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect [July 1, 2012] **upon its approval.**