SB645

Measure Title:	RELATING TO MEDICAID.
Report Title:	Medicaid; Statewide Standardized Formulary, Pharmacy and Therapeutics Board; Managed Care Organizations
Description:	Requires the department of human services to create a standardized drug formulary, and transfer medicaid coverage for prescription drugs administered in the home from managed care organizations to the department. Establishes a pharmacy and therapeutics board.
Companion:	
Package:	None
Current Referral:	HMS/HTH, WAM
Introducer(s):	BAKER, Chun Oakland

NEIL ABERCROMBIE
GOVERNOR

PATRICIA McMANAMAN
INTERIM DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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February 10, 2011

MEMORANDUM

TO: The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

The Honorable Josh Green, M.D., Chair
Senate Committee on Health

FROM: Patricia McManaman, Interim Director

SUBJECT: **S.B. 645 - RELATING TO MEDICAID**

Hearing: Thursday, February 10, 2011; 1:15 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of the bill is to require the Department of Human Services to create a standardized drug formulary, and transfer Medicaid coverage for prescription drugs administered in the home from managed care organizations to the department, and to establish a pharmacy and therapeutics board.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this bill because it will not provide savings to the State, will interfere with disease management and quality measurement, and moves the health care sector away from a twenty-first century one that utilizes health information technology.

First, Section 1 of this bill is fraught with misinformation. Under section 2501 of the Affordable Care Act (ACA), prescription medication claims reimbursed by Medicaid managed care health plans are eligible for rebates like the fee-for-service program.

The estimated savings for Ohio were prior to the Medicaid managed care rebates available under the ACA. A more recent article published July 21, 2010, (http://www.healthcarefinancenews.com/news/report-ohios-medicaid-pbm-carve-out-isnt-working), after enactment of the ACA, stated:

- "According to HealthLeaders-InterStudy's Ohio, Kentucky & Indiana Health Plan Analysis, "health plans and state officials haven't compiled cost and use data regarding services since the carve-out was implemented on Feb. 1.""
- "Prior to the passage of federal healthcare reform, carve-outs had an economic advantage in the greater rebates that states could capture from drug manufacturers. However, health reform legislation included drug rebate equalization measures that will allow managed care organizations to access the same rebates provided through state Medicaid fee-for-service purchasing programs for prescription drugs."
- ""With the restoration of rebate parity between managed care and fee-for-service populations, federal reforms will likely also encourage recently carved-out Medicaid drug benefits in Ohio to carve back in," said HealthLeaders-InterStudy Analyst Rick Byrne."

Additionally, there is no objective evidence that prior authorizations in Ohio have been reduced. The alleged 70% reduction was taken from a quote of an a priori supporter of the carve out's perception of others' experience that was included in an April 13, 2010 press release (http://oacbha.org/programs/coalition-for-patient-rights/).

As DHS moves toward value-based purchasing, it has begun health plan financial incentives and public reporting. A number of HEDIS and American Medical Association Physician Consortium for Performance Improvement quality measures are

based on combining pharmacy and non-pharmacy claims data. Examples include patients with a myocardial infarction on a beta-blocker, children with an upper respiratory not treated with an antibiotic, and adults newly diagnosed with depression on 7 weeks and 180 days of continuous antidepressant therapy. This bill will make it more difficult to monitor, manage, and report quality of care.

This bill does benefit health care providers, and DHS wants to acknowledge its appreciation for those providers who care for medical assistance recipients, but their benefit is at the expense of too many others, particularly patients. Fortunately, there is an alternative to assist health care providers without negatively impacting others, and that is electronic prescribing.

Electronic prescribing improves provider efficiency and patient safety. Electronic prescribing can allow the prescribing provider to know what medications are on a patient's health plan formulary and preclude pharmacy return calls for changes for non-formulary prescribed medications to ones on formulary, request prior authorization online, check for allergies or interactions with medications prescribed by others, prevent errors of incorrectly read poorly eligible hand-written prescriptions, and transmit the prescription to the patient's preferred pharmacy so it can be ready sooner for the patient.

A single statewide formulary for Medicaid offers few if any advantages that cannot be realized with implementation of electronic prescribing and has unintended consequences. However, combining a Medicaid single statewide formulary with the EUTF formulary could tip the balance of net benefit to the State if also combined with mandatory electronic prescribing.

Thank you for the opportunity to provide testimony on this bill.

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To: Senate Committees on Human Services and on Health

From: Cathy L. Takase, Acting Director

Date: February 10, 2011, 1:15 p.m.
State Capitol, Room 016

Re: Testimony on S.B. No. 645
Relating to Medicaid

Thank you for the opportunity to submit testimony on S.B. No. 645.

This bill would establish a Hawaii Medicaid Modernization and Innovation council to implement a Hawaii Patient Centered Health Home pilot program. OIP has no position on the creation of the council or the pilot program, but is testifying with concerns about a provision at page 13, lines 8-12, that would give the council a special permitted interaction under the Sunshine Law.

The Sunshine Law generally requires board members to discuss board business in a meeting, but provides for several specific circumstances, called "permitted interactions," in which board members may properly discuss board business outside a meeting. These permitted interactions are carefully balanced to both facilitate board members' ability to communicate, and protect the public's interest in having access to the board's discussions. For instance, there is a permitted interaction (section 92-2.5(b), HRS) that allows less than a quorum of a board to be assigned to investigate a specific matter of the board and report back to the board. This existing permitted interaction (1) is limited in duration, as it

envisions the group working together on one issue, and ceasing to exist after making its report on that issue; (2) is limited in scope of subject matter, since it involves investigation of one particular issue rather than a range of related topics; and (3) assures the public's ability to be informed about the discussions and testify about the issue, since it requires that the group report back and that the full board wait to discuss the report until a later meeting.

The permitted interaction proposed in this bill lacks any of those public protections, and seems instead to be intended to allow the council members to have standing subcommittees and workgroups that function entirely outside the Sunshine Law. OIP has serious concerns about allowing a board that is ostensibly subject to the Sunshine Law to conduct a large part of its work outside the Sunshine Law and without the protections of the public interest afforded by the Sunshine Law. OIP would therefore recommend that this provision be deleted, and that the council instead use the existing permitted interactions in conducting its business consistent with all other government boards.

Thank you for the opportunity to testify.

HMSA

Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 10, 2011

The Honorable Suzanne Chun Oakland, Chair
The Honorable Josh Green M.D., Chair
Senate Committees on Human Services and Health

Re: SB 645 – Relating to Medicaid

Dear Chair Chun Oakland, Chair Green, and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 645 which would create a State Pharmacy and Therapeutics Board that would be responsible for developing a single, statewide drug formulary, including prior authorization policies, for all Medicaid programs. In addition, the Bill mandates the "carve-out" of prescription drugs in the home from the services in Medicaid contracts. HMSA is opposed to this Bill.

This Bill seeks to undo the very action taken by the 2005 Legislature (Act 4, Special Session 2005) to explicitly prohibit the Department of Human Services from removing pharmaceutical benefits management from managed care plans that provide coverage for Medicaid beneficiaries. We believe this action is unnecessary and not desirable.

We believe that maintaining flexibility in managing the QUEST formulary is important to an efficient prescription drug coverage program. We do not believe that tying the program to a State agency's formulary will necessarily accrue any efficiencies, particularly when there is need to respond to the frequent and sometimes sudden changes in drug availability which plans can do.

For the provider and patient alike, timeliness is imperative. That is why HMSA has made great strides to have information and processes available electronically. The formularies and application and appeals forms and procedures are available on-line for providers. All of this will be altered with the change proposed in this Bill, and there will be immediate, if not long-term, financial consequences as new programming and staff will be required to execute the change.

We are concerned that the carve-out of certain drugs will result in higher costs to the consumer and the State. A study published in the February 2010 edition of Benefits & Compensation Digest, by E.J. Culley and Thomas L. Williams, entitled "Pharmacy Benefit Carve-In: the Right Prescription for Cost Savings," concluded that a plan that integrated medical services with prescription drugs resulted in lower medical expenses by 6.2 percent. Lower costs accrue to an integrated plan because financial incentives are aligned in such plans, and there is greater coordination of care through efficient data access.

Thank you for the opportunity to offer testimony. However, for the reasons stated herein, we oppose this legislation.

Sincerely,

Jennifer Diesman
Vice President
Government Relations

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Thursday, February 10, 2011 1:15 p.m. Conference Room 016

To: COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair

From: Hawaii Medical Association
Dr. Morris Mitsunaga, MD, President
Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: SB 645 Relating to Medicaid

In Support

Chairs & Committee Members:

Hawaii Medical Association supports SB 645.

This measure **establishes a statewide Medicaid formulary.** Any Nurse Practitioner or a Physician who deals directly with patients knows that the biggest roadblock to providing patients with timely and effective prescription drug treatment is the wide variety of formularies offered by Managed Care Organizations, some of which are extremely restrictive. It is painful for providers watch their patients suffer and be denied necessary treatment while they are forced to go through 3 different prior authorizations before they can give their patient the drug they knew would be effective in the first place. The goal of any legislation aiming to reduce administrative burden and improve patient care should be to **reduce the number (not the style) of prior authorization** that need to be completed before a patient can receive effective treatment.

Especially in the case of Medicaid, which is now reimbursing at around 60% of Medicare, the bottom line is that providers lose money whenever they see a Medicaid patient. The least that can be done is to reduce the extra administrative costs associated with treating these patients so that instead of losing money and a lot of extra administrative time for working, providers simply lose money when they see Medicaid patients.

A proven way to accomplish a decrease in the number of prior authorizations and an increase in patient satisfaction is to establish a statewide Medicaid formulary. In Ohio, their statewide Medicaid formulary reduced prior authorizations by 70%. In doing so the state saved $243.6 million throughout FY 2011. Delaware, Illinois, Iowa, Massachusetts, Nebraska, New York, North Carolina, Utah, West Virginia, Ohio and Montana report carving out all drugs from Medicaid managed care contracts.

Comparison charts show that Ohio's Medicaid formulary rates compare favorably with managed care plans in access to drugs for several specific health care conditions. These charts rated the ease of access to medications based on the number of restrictions that an insurer places on a patient's ability to obtain a drug prescribed by a physician or advanced practice nurse prescriber.

Total drug prices paid by MCOs are generally higher than those paid by **state** Medicaid programs, largely due to differences in the last component of drug prices (rebate). **Recent changes to CMS interpretation of PPACA ensure that states will not be disadvantaged drug purchasers.**

The intent of this bill is to have Hawaii Medicaid take back formulary and prior authorization policies form the Medicaid managed care plans and place them under a locally controlled, locally accountable pharmacy and therapeutics (P&T) committee, composed of the Directors of Human Services and Health, the Insurance Commissioner, and **local practicing physicians and pharmacists.**

Thank you for the opportunity to testify.

HAWAII DISABILITY RIGHTS CENTER
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THE SENATE
THE TWENTY-SIIXTH LEGISLATURE
REGULAR SESSION OF 2011

Committee on Human Services
Committee on Health
Testimony in Opposition to S.B.645
Relating to Medicaid

Thursday, February 10, 2011, 1:15 P.M.
Conference Room 016

Chair Chun – Oakland, Chair Green and Members of the Committees:

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

The purpose of the bill is to create a state pharmacy and therapeutics board and develop a standard drug formulary for Medicaid programs.

We take no position on the general issue of whether there ought to be a uniform prescription drug formulary for medicaid programs as opposed to allowing different health plans the opportunity to compete in the marketplace by offering different drug packages. Our opposition is based on the provision in Section 2 of the bill which would include anti-psychotic medications in the formulary.

We are concerned about recent efforts by the Department of Human Services to erode protections for individuals with mental illness. When the legislature passed Act 239 in 2005, that provision was known as "open access for mental health medication."

We strongly supported that bill because it was and is vital that mental health patients receive appropriate medications, prescribed by their physicians, in order to achieve stable, mental health. It is well documented in the medical literature that the pharmacological approach to treating mental illness is far different from that used to treat a physical ailment. Given the intricacies of individual human brain chemistry, it requires pinpoint precision to achieve a fine balance so that the delicate desired outcome of mental stability can be achieved. It is not the same as prescribing a standard antibiotic for the treatment of a common infection. For that reason, the legislature in 2005 recognized this and provided Medicaid coverage for psychotropic mediations which were prescribed in accordance with the terms of the law.

During the last legislative session, the Department of Human Services made a concerted effort to effectively repeal that law. In the end, the legislature arrived at a compromise which allowed some flexibility for generic drugs to be used in the case of anti-depressants, but left intact the provisions in Act 239 regarding anti- psychotic medication. This bill seeks to further weaken the protection provided to individuals with mental illness inasmuch as it directs that anti-psychotic medication be included in the single formulary. This is contrary to the existing law. The whole point of open access is that there is no pre-prescribed formulary. Open access means that whatever medication the doctor feels is appropriate to prescribe is what the consumer receives. Under a formulary approach, the physician would have to prescribe a drug which was on the formulary or else seek a prior authorization. That is exactly what is prohibited under current law.

We hope that the Legislature will resist any attempt to use this measure as a vehicle to further erode protections provided by Act 239. We believe that it has served mental health consumers well and has promoted public safety and cost effectiveness for the state at the same time.

Thank you for the opportunity to offer comments on this measure.

STEPHEN B. KEMBLE, M.D.
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To: COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair

Re: SB645, Relating to Medicaid

I am a psychiatrist treating Medicaid patients in Queen Emma Clinics and I am testifying in support of this bill. I and all the other doctors I know who treat Medicaid patients have experienced absurd denials, unreasonable formulary restrictions, prior authorizations for generics, and changing formularies as the managed care plans (especially the QExA plans) negotiate new deals with drug manufacturers. These problems are a severe impediment to care of Medicaid patients, and a deterrent to doctors accepting Medicaid patients in their practices.

The intent of this bill is to have Hawaii Medicaid take back formulary and prior authorization policies form the Medicaid managed care plans and place them under a locally controlled, locally accountable pharmacy and therapeutics (P&T) committee, composed of the Directors of Human Services and Health, the Insurance Commissioner, and local practicing physicians and pharmacists.

In Ohio, they had 8 competing Medicaid managed care plans with varying formularies and policies. After taking back pharmacy benefits from these plans and implementing a standard, State-wide Medicaid formulary, prior authorizations were cut 70%, access to needed drugs for Medicaid patients improved, and both doctors and patients applauded the improvement. To cap it off, the State of Ohio saved $243 million on Medicaid pharmacy costs in FY 2011. The single State-wide pharmacy idea has been a win-win for everyone except the managed care plans.

I am urging the Hawaii legislature to make the care of Medicaid patients less burdensome and more rewarding, and save the State money all at the same time. Please pass this bill!

Stephen Kemble, MD

ChunOakland2 - Tyrell

From: Marya Grambs [Marya@mentalhealth-hi.org]
Sent: Tuesday, February 08, 2011 3:59 PM
To: HMS Testimony
Cc: Kathleen Delahanty
Subject: sb645; Hearing 2/10, 1:15 pm

Categories: Red Category

TO:

COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair

RE: SB645, Relating to Medicaid; OPPOSE
HEARING: THURSDAY, FEB. 10, 2011, 1:15 PM, RM 016
FR: MARYA GRAMBS, EXECUTIVE DIRECTOR, MENTAL HEALTH AMERICA OF HAWAI`I

On behalf of Mental Health America of Hawai`i, we -- Mary Pat Waterhouse, President, Board of Directors, and I, Marya Grambs, Executive Director – are submitting testimony in opposition to SB645. While there may be benefit to standardizing a formulary in some cases, we believe that, because Section 2 of SB645 includes anti-psychotic medications in the formulary, this would not be in the best interests of people with mental illness.

This erodes protections for individuals with mental illness who are covered by Hawai`i's Open Access Law, Act 39. During the last legislative session, the Department of Human Services attempted to effectively repeal this law. After much deliberation on the part of stakeholders, the legislature decided upon a compromise which did allow flexibility in the use of generic antidepressant drugs, but excluded anti-psychotics from this requirement, thereby leaving intact the provisions in Act 239 for this class of medication. This compromise was reached because, while virtually every antidepressant is available in generic form, that is not the case with many of anti-psychotics.

This bill seeks to include anti-psychotic medication in the single formulary. We oppose this because it is contrary to the Open Access law, and because physicians must have the authority to prescribe the anti-psychotic medication they feel to be most effective, rather than fit within a prescribed formulary or be required to use a different medication.

With Aloha,

Marya Grambs, Executive Director
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Note: Please let me know by emailing me if it's not okay with you to be added to our email list to receive occasional emails from us (invitations to our mental health seminars and our May luncheon, job announcements, etc.).

Evercare
by UnitedHealthcare

Evercare Health Plan
QUEST Expanded Access
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February 9, 2011

The Honorable Suzanne Chun Oakland, Chair
The Honorable Josh Green, M.D., Chair

Senate Committees on Human Services and Health

Re: SB 645 – Relating to Medicaid

Dear Chair Chun Oakland, Chair Green and Members of the Committees:

My name is Dave Heywood and I am the Executive Director for UnitedHealthcare in Hawaii. United's offers Medicaid, Medicare and employer group health plans in Hawaii, including 20,000 aged, blind and disabled members in our Evercare QExA Medicaid program.

We appreciate the opportunity to testify today. We are opposed to SB 645 which would require the Department of Human Services (DHS) to: 1) create a standardized drug formulary, 2) transfer Medicaid coverage for prescription drugs administered in the home from managed care organizations to DHS, and 3) establish a single pharmacy and therapeutics board.

UnitedHealthcare believes that our ability to coordinate medical, behavioral, long term care, pharmacy, home and community based services as well as other covered benefits would diminish if pharmacy was "carved-out" from the Medicaid managed care organizations. This would lead to reduced quality of care and increased costs. Clinical and economic integration of pharmacy and health benefits is a central tenet of managed care.

The development of a single formulary does not address the differences that exist in the Medicaid programs – QUEST is primarily moms and kids and QExA is a combination of elderly, disabled adults and kids and medically fragile children. A "One size fits all" formulary will not work. An all-encompassing formulary would result in increased costs and reduced rebates. Additionally, QExA includes a sizeable number of members who have Medicare Part D as their primary drug coverage – QExA formularies and pharmacy administration must dovetail with Part D – this does not occur in the QUEST program.

While we appreciate efforts to administratively simplify healthcare, it should not be done at the expense of quality patient care. Further, we believe that SB645 would increase costs to the State of Hawaii. We respectfully request the Committees hold SB 645 today.

Thank you for the opportunity to testify.

Dave Heywood

David W. Heywood
Executive Director - Hawaii