

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

LATE

February 6, 2013

The Honorable Angus L. K. McKelvey, Chair
The Honorable Derek S. K. Kawakami, Vice Chair
House Committee on Consumer Protection and Commerce

Re: HB 1416 – Relating to Health and Wellness Programs

Dear Chair McKelvey, Vice Chair Kawakami and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to comment on HB 1416 which would clarify that participation in a health or wellness program does not constitute illegal gambling. HMSA supports this Bill.

HMSA believes that preventive health is critical to our efforts to create an efficient and effective health care system. U.S. employers—and their employees—pick up the tab for a significant portion of health care costs, the largest portion of which is associated with potentially modifiable lifestyle-related chronic illnesses (e.g., smoking, obesity, diabetes). To address this, employers and health plans have developed an intense interest in implementing results-oriented wellness programs in the workplace. But, as reported by the Wellness Council of America, while six in ten employees believe worksite wellness programs are a good idea, only three in ten actually participate in these programs.

This has driven employers to find new and novel ways of engaging employees (i.e., incentives) to try to get employees actively involved. These incentives include promotional items such as tee-shirts. But, they also include items of higher value, such as discounts at health clubs and health insurance premium discounts.

The federal Affordable Care Act (ACA) acknowledged the need for such incentives. The ACA authorizes incentives - or "rewards" - to promote employer wellness programs and encourage opportunities to support healthier workplaces. "Participatory wellness programs" generally are available without regard to an individual's health status. They include programs that reward participants by reimbursing them for the cost of membership in a fitness center; that provide a reward to employees for attending a monthly, no-cost health education seminar; that provide a reward for participating in a smoking cessation program; or that provide a reward to employees who complete a health risk assessment without requiring them to take further action.

"Health-contingent wellness programs," generally require individuals to meet a specific standard related to their health to obtain a reward. Examples include programs that provide a reward to those who do not use, or decrease their use of, tobacco, or programs that provide a reward to those who achieve a specified cholesterol level or weight, as well as to those who fail to meet that biometric target but take certain additional required actions. Regulations provide for a maximum permissible reward under a health-contingent wellness program from 20 percent to 30 percent of the cost of health coverage, and that further increase the maximum reward to as much as 50 percent for programs designed to prevent or reduce tobacco use.

While it is evident that providing rewards or incentives to employees to participate in wellness programs is critical to the national effort to improve people's health status, we are concerned that State gambling and lottery statutes may hinder that effort. Our laws provide that someone engages in gambling if that person pays "something of value" for the opportunity to receive "something of value." That may suggest that, at an employer's promotion, an employee registering for a health club in anticipation that he/she is eligible for a reward may be engaging in illegal gambling.

Such situations certainly could have been contemplated when the gambling statutes were enacted. The amendment in HB 1416 simply will exempt anyone participating in a health or wellness promotional program from the gambling and lottery statutes.

We believe this Bill will help us maximize our efforts to promote health and wellness programs, improve the health status of everyone in the community, and make for a more efficient health care system. We ask that you pass this Bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', with a long horizontal flourish extending to the right.

Jennifer Diesman
Vice President
Government Relations