

LATE

SB3012

Submitted on: 2/9/2014

Testimony for HMS/JDL on Feb 10, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Franks	Individual	Support	No

Comments:

This written testimony is made in favor of Senate Bill 3012.

I am Dean Franks. I'm a resident of Honolulu and have more than 30 years of experience as a disability rights attorney in private practice and as an administrative law judge. While I am currently an Administrative Law Judge for the Social Security Administration, my testimony is my opinion, and does not represent an official statement of or for the Social Security Administration.

By regulation, any person who may qualify for Supplemental Security Income through the Social Security Administration, or General Assistance in the State of Hawaii, is indigent and has virtually no income. In addition, even those who have worked enough to be insured for Social Security Disability Insurance Benefits, are not working, and are alleging medical impairments that so limit their work-related function that they anticipate being unable to work for at least one year.

Under current Hawaii law, a health care provider may charge a 'reasonable' amount for the service of providing copies of patient records. This term, 'reasonable,' fails to consider the patient's economic status, it fails to consider the patient's specific need for the records, and it fails to consider the public good for the patient to have access to copies of her or his medical records.

We in Hawaii should be very proud that such a large percentage of our population has access to healthcare. As a result of near universal access to healthcare we have been found to be one of the healthiest states with both a high average life expectancy, and a low percentage of our population that needs to apply for public disability benefits. But, in my opinion, we can, and should do more.

If the patient must apply for public disability benefits, the patient must have access to her or his medical records first, to be able to understand her or his medical history, and second, to be able to provide copies of these records to the State or Federal agencies who must decide these claims.

The sad fact is that it is very difficult for many disability applicants to obtain their medical records from healthcare providers in Hawaii. The key problem for the disability applicants is

the cost charged by the healthcare providers for the service of copying medical records. It is not unusual that a healthcare provider in Hawaii charges a fee in excess of one hundred dollars to a patient who is requesting copies of her or his medical records for the purpose of supporting a claim for Supplemental Security Income or Social Security Disability Benefits. When the patient cannot afford to pay this fee, her or his claim may be significantly jeopardized.

Not only does the cost of medical records deprive disability applicants' access to these records, but applicants and their representatives frequently report that the response to their request for records is often untimely and may require multiple requests. This failure, on the part of healthcare providers, to provide timely access to patient medical records may negatively affect the patient's medical treatment, and may result in a delay or denial of a full and fair consideration of the patient's disability application.

For these reasons I would support legislation proposed in SB 3012.

I would suggest SB 3012 be amended to include

- 1) Coverage for those patients who apply for State General Assistance to the Disabled, and
- 2) A mandate that healthcare providers provide medical records within a specified period of time.



S.B. 3012, Relating to Medical Records
Senate Committee on Human Services
Senate Committee on Judiciary
February 10, 2014; 10:00 a.m.

Thank you for the opportunity to provide testimony in opposition, as written, to S.B. 3012, Relating to Medical Records. As currently written, the measure will impede QMC's ability to provide requested medical records. We defer to the Healthcare of Hawaii's (HAH) request for time for its members to better review this proposal and determine if alternative could be provided for the committee's consideration.

QMC facilitates all medical record requests. Request for records are sent to the Medical Records department within QMC. QMC maintains a contract with a vendor to assist in the fulfillment of all requests. The vendor are responsible for initially scrutinizing all submitted forms to ensure that the requestor has provided all necessary patient consent form. The vendor is responsible to understand specific laws of who is authorized to request records and the special handling needs related to specially protected health information. Timelines to address requests are governed by Health Insurance Portability and Accountability Act, which is within thirty days from the date the request is received or sixty days if requested information is stored off-site. This time can be extended by no more than thirty days.

For QMC, records are either on paper, microfilm, or electronic (usually a combination of different media). Paper records are housed by a storage company; all boxes are indexed. The proper box is requested and delivered from the vendor storage site to QMC. Electronic records (from 2006) are reviewed in QMC's electronic records, on site, by representatives of the vendor who are granted appropriate access. Microfilmed records are kept in the department with a copy of film stored at vendor site under climate-controlled conditions.

Records requested are printed or copied to CD. Every page goes through quality check before released to requestor. The vendor does a page count to provide estimate to attorneys and will communicate options including validating type of documents needed. The vendor is responsible for collection of fees for copies of records prior to release and retains billable record fees, as part of our contractual agreement. All releases and correlating charges are entered into electronic health record.

The unintended and possibly intended consequences of this measure, as written, are substantial. We anticipate challenges in interpretation of the applicability of the law, on a case-by-case basis. This will usurp time and resources from both the vendor and QMC staff. This, coupled with the limitations this measure imposes on charges and its impact on the vendor, will result in substantial costs in many different ways to QMC (and any hospital using a similar process).

We join HAH and ask for this measure to be deferred to determine if alternative language could be suggested to the committees for your consideration.

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