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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Wednesday, February 11, 2015
8:35 a.m.

TESTIMONY ON HOUSE BILL NO. 796 – RELATING TO INSURANCE.

TO THE HONORABLE DELLA AU BELATTI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department takes no position on the bill, and submits the following comments on the bill.

The purpose of this bill is to require an entity to send written notice to a health care provider at least 30 calendar days prior to initiating any insurance recoupment or offset demand efforts, and prohibit an entity from initiating any recoupment or offset efforts more than 12 months after an initial claim payment was received by a health care provider with exceptions.

The Department would defer to the Report of the Insurance Recoupment Working Group prepared by the Insurance Division of the Department (December 2013) pursuant to Senate Current Resolution No. 129, S.D. 1 (2013). Should the problem persist for health care providers, the legislature may wish to set a standard as indicated in the report (12 to 18 month look back periods for commercial claims with some

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exceptions). The Insurance Division further notes that it does not regulate or oversee the contractual provisions or requirements between health insurers and medical providers.

We thank this Committee for the opportunity to present testimony on this matter.



February 11, 2015

The Honorable Della Au Belatti, Chair
The Honorable Richard P. Creagan, Vice Chair
House Committee on Health

Re: HB 796 – Relating to Insurance

Dear Chair Au Belatti, Vice Chair Creagan and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 796 which seeks to establish statutory insurance recoupment timeframes. HMSA has comments on this measure.

Insurance recoupment occurs when an issuer pays a health care provider and later seeks reimbursement of some or all of the payment upon determination that the payment was made in error. Via SCR 129, the 2013 Legislature established a Working Group, chaired by the Insurance Commissioner, to look into concerns raised about the need to statutorily establish time limits for recoupment. The Working Group concluded:

The Working Group finds that which anecdotal examples of recoupment have been discussed during the Working Group meetings, most of them related to Medicare or Medicaid. As federal law places no specific time limit on recoupment recover, state legislation would have no effect on the recoupment practices at issue. In addition, the Working Group finds that several Hawaii health plans already have recoupment time frames established with healthcare providers.

After much discussion and deliberations, the Working Group makes the following recommendations:

1. The Working Group does not recommend introducing legislation establishing insurance recoupment time limits; and
2. The Working Group recommends that HAHP work with its members and the healthcare provider community to ensure HAHP members maintain reasonable recoupment timeframes.

We continue to work with members of our provider network to address specific recoupment cases about which they have concerns. We, additionally, initiated conversations with the Hawaii Medical Association and we ask we be allowed to continue those discussions to address the concerns raised in this Bill.

Thank you for allowing us to comment on HB 796, and we ask that you consider our suggestion in your deliberations.

Sincerely,

Jennifer Diesman
Vice President, Government Relations



HPCCA

HAWAII PRIMARY CARE ASSOCIATION

House Committee on Health

The Hon. Della Au Belatti, Chair

The Hon. Richard P. Creagan, Vice Chair

Testimony on House Bill 796

Relating to Insurance

Submitted by Robert Hirokawa, Chief Executive Officer

February 11, 2015, 8:35 am, Room 329

The Hawaii Primary Care Association (HPCCA), which represents the federally qualified community health centers in Hawaii, supports House Bill 796, which seeks to clarify insurance recoupment standards in Hawaii.

As currently written in Hawaii, no statute of limitations exists to protect healthcare providers in Hawaii from recoupment inquiries by health insurance plans, despite plans being able to seek such information in perpetuity. The proposed language in House Bill 796 seeks to alleviate that by bringing both sides even, imposing a twelve month limit on all recoupment efforts. Doing so will protect providers in future inquiries and alleviate the information storage burden.

The HPCCA thanks you for the opportunity to testify.



Hawai'i Psychological Association

For a Healthy Hawai'i

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Representative Della Au Belatti, Chair
Representative Richard P. Creagan, Vice Chair
Committee on Health

February 9, 2015

Wednesday, February 11, 2015, 8:35 a.m., Room 329

TESTIMONY IN SUPPORT OF HB 796

Honorable Chair Representative Della Au Belatti, Vice Chair Representative Richard P. Creagan and members of the committee, my name is Marie Terry-Bivens, Psy.D. and I am a psychologist and President of the Hawaii Psychological Association. I would like to provide testimony in support of HB 796.

"Recoupments" are funds that health plans have paid to providers but later seek reimbursement after the plan determined, for whatever reason, it paid out in error. There's no precise information about how often insurance companies are demanding recoupment or for how much, but it is happening more often, and to the full range of health care providers. Across the country as the recoupment demands are increasing, practices are folding as a result.

In Hawaii, it is widely recognized that we have a shortage of health practitioners in many fields. And while practitioners generally have one year to adjust their billing to insurance companies; the insurance companies have no similar restriction preventing them from reaching far back into history to recoup funds they previously paid to health care providers for their services. This is an ongoing open-ended liability for health care professionals and undermines the ability to build upon and plan a viable and economically feasible practice.

Thus far, more than half of the country has legislation limiting the time that an entity can take money back for the services that have already provided. According to a recent data search the following states have statute of limitations for medical recoupment: Alabama, Arkansas; Arizona; California; Colorado; Connecticut; District of Columbia; Florida; Georgia; Illinois; Indiana; Iowa; Kentucky; Maine; Maryland; Massachusetts; Missouri; Montana; New Hampshire; New Jersey; New York; North Carolina; Ohio; Oklahoma; South Carolina; Texas; Utah; Vermont; Virginia; Washington; and West Virginia ranging from 6-months to 30-months, with the average range of time allowed for take-backs being somewhere between 12 and 24 months.

Representative Della Au Belatti, Chair
Representative Richard P. Creagan, Vice Chair
Committee on Health
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Thank you for your consideration of my testimony in support of HB 796.

Respectfully submitted,

Marie Terry-Bivens, Psy.D.
President



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TO: COMMITTEE ON HEALTH
Rep. Della Au Belatti, Chair
Rep. Richard P. Creagan, Vice Chair

DATE: Wednesday, February 11, 2015
TIME: 8:35 a.m.
PLACE: Conference Room 329

FROM: Hawaii Medical Association
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 796

Position: Support

This measure requires an entity to send written notice to a health care provider at least thirty calendar days prior to initiating any recoupment or offset demand efforts and prohibits an entity from initiating any recoupment or offset efforts more than twelve months after an initial claim payment was received by a health care provider, with specific exceptions.

HMA believes it puts providers at an unfair disadvantage when insurers extend a retrospective audit back more than a year. Physicians have 12 months to file, why do insurers need an unlimited amount of time when they cannot demonstrate intentional wrongdoing?

Given that the State of Hawaii lost almost 100 doctors last year alone we should make every effort to not drive the rest of the practicing physicians still living in Hawaii to the mainland where reimbursements are much higher and the cost of running a practice is much lower.

According to the Star Advertiser's January 20, 2015 article entitled, Doctor shortage grows, "Hawaii's doctor shortage jumped 20 percent over the past year as more physicians left the field amid a growing demand for medical services. New estimates on physician supply and demand peg the current shortage at 890, and that's expected to jump as high as 1,500 by 2020, according to the latest figures from the University of Hawaii John A. Burns School of Medicine's Area Health Education Center... Specialties with the fastest-growing shortages include infectious disease and orthopedic surgery. There is a 65 percent shortage of specialists in infectious diseases like HIV/AIDS and antibiotic-resistant wounds, with only 13 doctors

Officers

*President - Robert Sloan, MD, President-Elect - Scott McCaffrey, MD
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statewide, while a more than 50 percent shortage exists for general surgeons, with only 55 seeing patients.”¹

Our physician shortage did not come out of nowhere. It is a direct result of a hostile insurance market, which makes it difficult to practice medicine in this State. Please do something to improve this situation. By all calculations, we are already in a crisis.

Thank you for the opportunity to testify.

¹ <http://www.staradvertiser.com/s?action=login&f=y&id=289125151&id=289125151>