



STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 22, 2016

TO: The Honorable Jill N. Tokuda, Chair  
Senate Committee on Ways and Means

FROM: Rachael Wong, DrPH, Director

SUBJECT: **SB 2330 SD 1 RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM**

Hearing: Tuesday, February 23, 2016, 9:50 a.m.  
Conference Room 211, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the intent of the bill and provides comments. The Department also asks that the Committee on Ways and Means restore Section 5 of the original measure that extends the Hospital Sustainability Program Special Fund, and restore Section 6 of the original measure, as that section continued exemptions to the central services and department administrative expenses assessed on special funds; allowing the exemptions to be repealed on December 16, 2016, may result in \$3,790,000 less in State matching funds, resulting in \$7,580,000 less available to hospitals.

**PURPOSE:** The purpose of the bill is to continue the hospital sustainability program for one year and to appropriate funds out of the hospital sustainability program special fund for fiscal year 2016-2017. Amends various reimbursement rates under the program to certain private hospitals through Medicaid managed care health plans, uncompensated care and disproportionate share hospital payments.

The Department of Human Services (DHS) appreciates and supports the intent of the bill to continue the hospital sustainability program for an additional year, and amend the program by adding additional uses of the hospital sustainability program special fund. We would like to suggest several provisions that may need to be amended. We have engaged in dialogue with

stakeholders regarding this program, and look forward to continued discussions on any needed changes.

The definition of “private hospital” was amended in SB 2330 SD 1 to account for the possibility of a hospital becoming a private hospital. However, Section 2, 3 (d) would exempt from paying the fee, a hospital that was not a private hospital in calendar year 2015. Thus, any facility that was not operating as a private hospital at any point in CY 2015, would not be subject to the fee. We suggest deleting from pg. 6, starting line 11-12, “and any hospital that was not in private operation during any part of calendar year [~~2014~~ 2015” and from similar language in lines 16-18.

In Section 1, the purpose of the hospital sustainability special fund states that the fee shall be used for four main purposes, including a private uncompensated care hospital pool for uninsured individuals. However, the federal authority to operate such a pool will not be in place during FY 2016-17. Thus, we suggest revising the language to allow for flexibility to use the funds for any of the four provisions listed, not necessarily for each provision.

Section 4 (b)(5) of the bill adds the requirement that payments be made to the hospitals within ten business days upon receipt of the capitation rate. While DHS Med-QUEST supports the timely provision of payment, there may be instances when it is not possible to pay within that specified time period. We respectfully suggest some flexibility should be included in this provision.

The Department is concerned about the more significant amendments made by the joint committees of Commerce & Consumer Protection & Health and Human Services in SB 2330 SD 1:

(3) Deleting language that would have repealed the hospital sustainability program special fund and related amendments made to section 36-30(a), Hawaii Revised Statutes, on December 31, 2017[.] STAND. COM. REP. 2147.

In practical terms, this amendment to the bill's original Section 5, would allow the repeal of the Hospital Sustainability Program Special Fund as of December 31, 2016. The original measure proposed to extend the repeal date of the special fund to December 31, [~~2016~~ 2017]. We believe it is the intent of the legislature to maintain the Hospital Sustainability Program Special Fund, and not repeal it mid-way through the next fiscal year. We ask that the bill be amended to reflect this original language of Section 5.

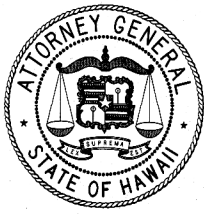
Of equal concern to the Department is the following amendment:

(4) Deleting section 6 of this measure, which would have repealed certain amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, on December 31, 2017[.] STAND. COM. REP. NO. 2147

The original bill's Section 6 proposed to continue to exempt the Hospital Sustainability Program Special Fund from the central service expenses assessed under section 36-27, HRS, and the administrative expenses assessed under section 36-30, HRS. The continued exemptions will ensure that all moneys received in fees will only be used to increase the sustainability of hospitals in Hawaii and to benefit Medicaid program recipients. Without these two exemptions from the central services expenses and departmental administrative expenses assessments, the Hospital Sustainability Program would have to pay a \$3,500,000 in central services and \$290,000 in department administrative services assessments. This is a total of \$3,790,000 which the Department would not be able to use to sustain hospitals and improve services to Medicaid recipients. In paying these expenses, \$7,580,000 in matching federal funds that otherwise would have been paid to the hospitals would not be received and enter our economy. What would be a \$3,790,000 gain for the State would be a \$7,580,000 loss for the hospitals without the exemptions.

We believe the intent of the legislature is to maximize the amount of federal dollars that will be potentially matched through this program and urge the committee to restore the original Section 6 of the bill to preserve and continue the exemptions from the central services expenses (section 36-27(a), HRS) and department administrative services expenses (section 36-36(a), HRS) assessments.

Thank you for the opportunity to testify on this bill.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2330, S.D. 1, RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Tuesday, February 23, 2016

**TIME:** 9:50 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY** (For more information, contact Lee-Ann N. M. Brewer, Deputy Attorney General, at 586-1234)

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Chair Tokuda and Members of the Committee:

The Department of the Attorney General provides comments on Senate Bill No. 2330, Senate Draft 1, which continues the hospital sustainability program for one year, amends the definition of “private hospital,” changes the amount of the hospital sustainability fee and mechanisms for disbursing the funds, and makes an appropriation out of the hospital sustainability program special fund (the special fund) for fiscal year 2016-2017.

The definition of “private hospital” on page 3, lines 12-18, is being changed in Senate Draft 1 to include “hospitals not named in Attachment A of the medicaid section 1115 demonstration waiver that became private hospitals in calendar year 2016 and are currently operating.” However, this bill amends section 5(d), Hawaii Revised Statutes (HRS), to exempt “any hospital that was not in private operation during any part of calendar year 2015” from the hospital sustainability fee. See page 6, lines 11-12, and lines 16-18. This means that a private hospital that was not in private operation during any part of calendar year 2015 would be exempt from paying the hospital sustainability fee, but would be eligible for enhanced reimbursements under the hospital sustainability program. If that was not the intent, then the bill should be amended to delete the exemption from paying the hospital sustainability fee by deleting the phrase “and any hospital that was not in private operation during any part of calendar year [2014] 2015” from page 6, lines 11-12 and lines 16-18.

The Centers for Medicare and Medicaid Services (CMS) granted the Department of Human Services (the Department) a waiver of the broad-based requirements under section 1903(w)(3)(E) of the Social Security Act, effective July 1, 2013. This allowed the Department to exempt children’s, psychiatric, and rehabilitation hospitals from some or all of the fees, and

assess the fee at a rate of 2.365 percent for net 2011 inpatient hospital revenue and three percent of net 2011 outpatient hospital revenue. The hospital sustainability fee was, therefore, found to be “generally redistributive” as required under 42 C.F.R. § 433.68(e)(1).

The rate imposed on net inpatient hospital revenues has varied slightly over the last three years, and is currently 1.892 percent. Senate Draft 1 of the bill deletes the exemption of rehabilitation hospitals, and changes the rate of the hospital sustainability fee on net inpatient hospital service revenue from the current 1.892 percent to “not to exceed three per cent.” Because these changes in combination may affect the calculations upon which the initial CMS waiver of the broad-based requirements were based, the Department may need to obtain an updated waiver of the broad-based provisions from CMS.

Senate Draft 1 of the bill also makes changes to the uses of the hospital sustainability fee beginning at page 4, line 10. This is drafted as a mandate to use the revenue from the hospital sustainability fee for all four of the listed options. This may be an issue because subparagraph (C) on page 5, lines 1-3, provides for a private uncompensated care hospital pool for uninsured individuals. The Department’s federal authorization to utilize an uncompensated care pool under its current section 1115 Medicaid waiver expires on June 30, 2016. The other option relating to a quality incentive pool may also require CMS approval before implementation.

Section -7, HRS, in section 2 of Act 217, Session Laws of Hawaii 2012, requires the Department to seek necessary federal approvals. However, if the Department does not get federal approval that may be necessary to execute one or more of these options, then the Department may be out of compliance with the State statutory mandate, as currently drafted.

Accordingly, we recommend that the sentence beginning on page 4, line 10, be reworded to read “No less than eighty-eight per cent of the revenue from the hospital sustainability fee shall be used for one or more of the following:”, and that the word “and” on page 5, line 3, be changed to “or.”

Senate Draft 1 of the bill changed one of the amendments made in section 5 of the bill, at page 12, line 17. The original bill replaced the year 2016 with 2017. That replacement was deleted in Senate Draft 1, which results in expiration of both the special fund established by section -4, Hawaii Revised Statutes, and the exemption of the special fund from the administrative expenses assessment imposed by section 36-30, HRS, on December 31, 2016,

which is six months before the extended sunset date for the hospital sustainability program under this bill.

We recommend that the date at page 12, line 17, be December 31, 2017. This allows the special fund to remain in place for six months beyond the termination of the program for purposes of winding down the special fund and completing necessary disbursements. It also maintains the exemption from the administrative expenses assessment during that same six-month period. We recommend that the year 2016 on page 12, line 17, be amended to read 2017.

Similarly, Senate Draft 1 of the bill deleted section 6 of the original bill, which contained an amendment that is necessary to ensure the special fund remains exempt from the central service expenses assessments under section 36-27, Hawaii Revised Statutes, through December 31, 2017. We recommend that the original section 6 of the bill be included in the next draft. See original section 6 beginning on page 13, line 1, of Senate Bill No. 2330.

Finally, we make the following technical comment on page 5, line 13: paragraph (3) should be amended to add the phrase “hospital sustainability program” before “special fund.”


Thank you for the opportunity to testify on this bill.



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Jill N. Tokuda, Chair, Committee on Ways and Means  
The Honorable Donovan M. Dela Cruz, Vice Chair, Committee on Ways and Means  
Members, Committee on Ways and Means

From:   
Paula Yoshioka, Senior Vice President, The Queen's Health Systems

Date: February 19, 2016

Hrg: Senate Committee on Ways and Means Hearing; Tuesday, February 23, 2016 at 9:50 a.m.  
in Room 211

Re: **Support for SB 2330, SD1, Relating to the Hospital Sustainability Program**

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My name is Paula Yoshioka, and I am a Senior Vice President at The Queen's Health Systems (QHS). I would like to express my **strong support** for SB 2330, SD1, relating to the Hospital Sustainability Program. This bill would reauthorize the Hospital Sustainability Program for an additional year.

For several years, hospitals have faced declining federal payments for providing uncompensated care to high need populations. The Hospital Sustainability Program assists hospitals in mitigating the losses for providing critical health care services. The program does so by issuing a fee to hospital providers in the state of Hawaii, including QHS. The funds generated by this fee are used by the state to obtain matching federal Medicaid funds, which are reallocated back to private hospitals.

Annually, QHS provides community benefits in excess of \$90 million for care and other community need programs that are unfunded or underfunded. The Hospital Sustainability Program helped QHS offset a portion of those costs.

I ask that you support this legislation and the continuation of the Hospital Sustainability Program.

Thank you for your time and consideration of this matter.

**February 23, 2016 at 9:50 AM**  
**Conference Room 211**

**Senate Committee on Ways and Means**

To: Senator Jill Tokuda, Chair  
Senator Donovan Dela Cruz, Vice Chair

From: Michael Robinson  
Vice President, Government Relations & Community Affairs

**Re: SB 2330, SD1 - Testimony in Support**

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My name is Michael Robinson, Vice President, Government Relations and Community Affairs at Hawai'i Pacific Health (HPH). Hawai'i Pacific Health is a not-for-profit health care system, and the state's largest health care provider and non-governmental employer. Hawai'i Pacific Health is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four hospitals, more than 50 outpatient clinics and service sites, and over 1,600 affiliated physicians. Hawai'i Pacific Health's hospitals are Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

HPH **supports** SB 2330, SD1 which continues the hospital sustainability program for one year and appropriates funds out of the hospital sustainability fund for fiscal year 2016-2017.

Recognizing that Medicaid payments to hospitals were far below the actual costs of care, the Legislature created the Hospital Sustainability Program by enacting Act 217, SLH 2012, which improves Medicaid payments to hospitals. The program achieves this increase by assessing a fee on hospitals based on their patient revenue. The funds generated by those fees are then used to obtain additional federal Medicaid funds, which are deposited in the hospital sustainability program special fund and distributed back to private hospitals. Payment back to facilities is based on the amount of a hospital's uncompensated care, which includes the costs incurred by hospitals serving under- and uninsured patients. Importantly, no state funds are contributed to the hospital sustainability program.

Because of this program, Medicaid payments are now closer to the actual costs of care, thereby reducing losses and improving the financial stability of our hospital system. The program made it possible for hospitals to cover 86 percent of their costs related to Medicaid patients, up from 75 percent without the program. It is clear that the Hospital Sustainability Program helps to ensure that Medicaid patients will maintain access to needed hospital care.

Thank you very much for the opportunity to testify on this measure.







**February 23, 2016 at 9:50 AM**  
**Conference Room 211**

**Senate Committee on Ways and Means**

To: Chair Jill N. Tokuda  
Vice Chair Donovan M. Dela Cruz

From: George Greene  
President and CEO  
Healthcare Association of Hawaii

Re: **Testimony in Support**  
**SB 2330 SD 1, Relating to the Hospital Sustainability Program**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 180 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

We would like to thank the committee for the opportunity to **support** SB 2330 SD 1. This legislation would amend and extend the Hospital Sustainability Program, which has helped Hawaii hospitals to offset some of the losses they incur taking care of the most underserved in our state. HAH's proposed legislation would extend the program through June 30, 2017, and make other adjustments to the program as necessary.

Recognizing that Medicaid payments to hospitals were far below the actual costs of care, the Legislature created the Hospital Sustainability Program by enacting Act 217, SLH 2012, which improves Medicaid payments to hospitals. The program achieves this increase by assessing a fee on hospitals based on their patient revenue. The funds generated by those fees are then used to obtain additional federal Medicaid funds, which are deposited in the hospital sustainability program special fund and distributed back to private hospitals. Payment back to facilities is based on the amount of a hospital's uncompensated care, which includes the costs incurred by hospitals serving under- and uninsured patients. Importantly, no state funds are contributed to the hospital sustainability program.

Because of this program, Medicaid payments are now closer to the actual costs of care, thereby reducing losses and improving the financial stability of our hospital system. The program made it possible for hospitals to cover 86 percent of their costs related to Medicaid patients, up from 75 percent without the program. It is clear that the Hospital Sustainability Program helps to ensure that Medicaid patients will maintain access to needed hospital care.

We appreciate your consideration of this important matter, and urge your support of this measure.



**HPCOA**

HAWAII PRIMARY CARE ASSOCIATION

**Senate Committee on Ways and Means**

The Hon. Jill N. Tokuda, Chair

The Hon. Donovan M. Dela Cruz, Vice Chair

**Testimony on Senate Bill 2330**

**Relating to the Hospital Facility Sustainability Program**

**Submitted by Dustin Stevens, Public Affairs and Policy Director**

**February 23, 2016, 9:50 am, Room 211**

The Hawaii Primary Care Association supports Senate Bill 2330, which continues the Hospital Sustainability Program.

Recognizing that Medicaid payments to hospitals were far below the actual costs of care, the Legislature created the Hospital Sustainability Program by enacting Act 217, SLH 2012, which increases Medicaid payments to hospitals. The program achieves this by assessing a fee on hospitals, using the revenue to obtain matching federal Medicaid funds, and returning a majority of the combined amount directly to hospitals. Payment is based on the amount of a hospital's uncompensated care, which consists of nonpayment by uninsured patients and underpayment by Medicaid.

Recognizing the vital role that hospitals play in Hawaii's healthcare infrastructure, the HPCOA supports this measure and thanks you for the opportunity to testify.