

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

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TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON HEALTH
ON
SENATE BILL NO. 2376 S.D.1

March 16, 2016, 8:30 a.m.

RELATING TO PRESCRIPTION DRUG BENEFITS

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

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees opposes this bill. The EUTF's pharmacy benefit manager, CVS Caremark has identified approximately 1,260 (or 1.3%) active employees and non-Medicare retirees in the prescription drug plans that do not have a network pharmacy within 10 miles of their residence. These areas are primarily on the Big Island, except for Maunaloa, Molokai. The highest impacted areas are Naalehu (212 subscribers), Captain Cook (207), Volcano (200), Paauilo (144) and Laupahoehoe (99).

The bill does not describe how the affected non-network pharmacies will be reimbursed by the plan or pharmacy benefit manager. Currently, the non-network pharmacy charges the member who pays the full amount. The member then submits a claim for the prescription to CVS Caremark who reimburses the member at the same rate as the network pharmacies less a higher copayment and coinsurance than a

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide service that is excellent, courteous, compassionate, and informative.

member would have paid at an in-network pharmacy. It is unclear how the non-network pharmacy will 1) know whether there's a network pharmacy within 10 miles of the member's residence and 2) be reimbursed by the pharmacy benefit manager, both the mechanism and the reimbursement rate since there is no agreement between the two parties.

This bill may have a significant cost impact to the active employees, retirees and the State and counties since the incentive for pharmacies to join the CVS network, that reduces costs to the EUTF, will be diminished as the \$15 dispensing fee paid to the out-of-network pharmacy is significantly higher than the dispensing fee paid to in-network pharmacies and the copayment incentives that drive use of network pharmacies are eliminated. The \$15 dispensing fee would result in additional costs of \$300,000 annually, if all of the affected members decided to fill their prescriptions out-of-network. In addition, because the potential exists for additional costs related to retirees, if that were to occur an additional impact would be an increase to the State and counties unfunded OPEB liability.

Additionally, the EUTF Board of Trustees recently approved implementation of a sub-network within the CVS Caremark network ("Retail 90 network") for 90 day prescriptions for July 1, 2016 that is projected to save the EUTF plan \$5.8 million annually. The Retail 90 network will also be negatively impacted by this bill.

Thank you for the opportunity to testify.



DAVID Y. IGE
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SHAN S. TSUTSUI
LT. GOVERNOR

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DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Wednesday, March 16, 2016
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 2376, S.D. 1 – RELATING TO PRESCRIPTION
DRUG BENEFITS.**

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 submits the following comments.

The purpose of this bill is to allow prescription drug benefit plan beneficiaries to obtain a prescription without penalty from a non-network retail community pharmacy located within ten miles of a beneficiary’s residence when the nearest network retail community pharmacy is located over ten miles away.

This bill may impact the cost of health plans due to the mandatory participation of non-network pharmacies that have not negotiated reimbursement rates and agreements with health insurers. Rates and agreements that have not been negotiated, as well as an additional \$15 fee, may hinder insurers’ efforts to optimally manage their network and costs. Ultimately, this may result in increasing premiums for plan beneficiaries.

The reimbursement process for non-participating providers as set forth in a plan may also be impacted. In addition, proposed subsection (c) on page 3, lines 13 to 16, does not clearly specify the reimbursing entity.

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

March 14, 2016

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

Fr: Cynthia Laubacher, Senior Director, State Affairs
Express Scripts Holding Company

Re: Senate Bill 2376 SD1 – Pharmacy Networks
Hearing Date: Wednesday, March 16, 2016 8:30a.m.

Express Scripts appreciates the opportunity to submit testimony regarding House Bill 1672, which seeks to allow patients to use non-network pharmacies if an in-network pharmacy is not within ten miles, as well as pay out-of-network pharmacies a \$15 dispensing fee. Express Scripts is one of the nation's leading pharmacy benefit managers, serving tens of millions of Americans.

First, SB 2376 is unnecessary. House Bill 65/Act 226 of 2013, allows all retail pharmacies in the state the opportunity to contract with us. This language was the result of extensive negotiations involving plans, pharmacy benefit managers and the local retail pharmacists.

Second, SB 2376 creates numerous problems for patients and existing network pharmacies. First and foremost, it imperils patient safety. PBMs monitor prescription safety across all of our network pharmacies, alerting pharmacists to potential drug interactions, even if a consumer uses multiple pharmacies. Pharmacies outside our network cannot access the patient's history to determine the potential for a drug interaction. Consider the case of a cancer patient being treated by a primary care physician, an oncologist, a radiologist and a surgeon, each of whom is prescribing medication. If a patient uses an out-of-network pharmacy, that pharmacy will not have access to any information as to the other medications that patient may be taking, therefore, unable to perform basic required drug utilization review to ensure the patient will not suffer from a drug interaction.

Nor can that pharmacy bill us for their services, access patient information regarding their formulary or cost share. Patients will be forced to pay the full price of the medication. PBMs are also able to monitor fraud, waste and abuse with pharmacies in their networks, such as whether a patient is attempting to fill multiple prescriptions for controlled substances at different pharmacies. We cannot do any of this if the pharmacy is not in our network.

Pharmacy networks are designed to provide consumers convenient access to prescriptions at discounted rates. Pharmacies receive discounted dispensing fees in exchange for being included in our networks. The more limited the network, the greater the discount in exchange for the expected increase in business. SB 2376 eliminates the incentive for pharmacies to offer discounts join out networks because they will no longer have that expectation of increased business from patients using network pharmacies in exchange for lower copayments. As a result, plan costs will increase as network pharmacies will demand higher dispensing fees to match those of their out-of-network competitors provided a financial advantage under the provisions of SB 2376.

For these reasons, we respectfully request that the committee defer action on this proposal. Thank you for the opportunity to submit testimony on this matter.



Testimony of
John M. Kirimitsu
Legal & Government Relations Consultant

Before:
House Committee on Health
The Honorable Della Au Belatti, Chair
The Honorable Richard P. Creagan, Vice Chair
March 16, 2016
8:30 am
Conference Room 329

Re: SB 2376 SD1 Relating to Prescription Drug Benefits

Chair, Vice Chair, and committee members thank you for this opportunity to provide testimony on SB 2376 SD1 relating to non-network prescription drug coverage.

Kaiser Permanente Hawaii opposes this bill.

Kaiser Permanente Hawaii opposes this bill requiring health plans to reimburse non-network pharmacies that choose not to contract with health plans. As a closed system, Kaiser Permanente, through its pharmacy benefit managers (“PBM”), utilizes contracted network pharmacies, whenever Kaiser Permanente does not have its own pharmacy available within a service area. Current law allows any pharmacy to participate in a health plan's network, so any pharmacy that is not included is choosing not to participate.

For Kaiser Permanente’s network pharmacy, Kaiser Permanente’s PBMs evaluate retail pharmacies for quality and pharmaceutical safety before including them in Kaiser Permanente’s contracted network. This involves ensuring that retail pharmacies meet patient safety goals and credentialing standards. In contracting with retail pharmacies, formularies are also established by PBMs to improve the quality of drug prescribing. Without a contract, pharmacies do not have to adhere to Kaiser Permanente’s formulary requirements ensuring quality and safety. Allowing just *any* non-network pharmacy to prescribe medications, including non-formulary drugs, to its members would undermine Kaiser Permanente’s efforts to create pharmacy networks that deliver efficient, safe, and high quality care. To accomplish the goal of high-value pharmacy networks, health plans must have the flexibility to select the most effective and efficient pharmacy providers for the safety of its members. Why would it be acceptable to reimburse an unqualified pharmacy who prescribes an unsafe, non-formulary, drug to a patient?

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Additionally, Kaiser Permanente relies on its PBMs to manage costs and utilization for the benefit of its enrolled members. In managing costs, PBMs build networks of pharmacies to provide consumers convenient access to prescriptions at discounted rates. It is important to have pharmacies compete to be part of the pharmacy network for a particular PBM in order to keep the rising costs of prescription drugs down. This approach to gaining lower prices for enrollees will not work as well if pharmacy providers declining to be in the network can subsequently demand to be paid retail pricing. This undermines the effectiveness of the network at gaining lower prices because providers will have no incentive to join a network if they are able to receive higher non-contracted rates under this bill, namely “a \$15 dispensing fee plus the product cost at the higher rate of reimbursement.”

Lastly, it is well recognized that a consumer with a prescription drug benefit plan must utilize a pharmacy that accepts payment for that plan. Under its closed system, Kaiser Permanente will not be able to adjudicate a prescription to administer a patient’s benefit if the patient does not utilize a contracted pharmacy. A non-network pharmacy will not know what to charge the patient, nor are there any agreements on reimbursement to determine what to reimburse that non-participating pharmacy. Therefore, patient's clearly benefit from contracted pharmacies, since contracted pharmacies can adjudicate the benefit that the patient has purchased.

For the foregoing reasons, Kaiser Permanente strongly urges that this bill be held.

Thank you for the opportunity to comment.

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Walgreen Company**

DATE: March 15, 2016

TO: Representative Della Au Belatti
Chair, Committee on Health
HLTestimony@capitol.hawaii.gov

RE: **S.B. 2376, S.D.1 – Relating to Prescription Drug Benefits**
Hearing Date: Wednesday, March 16, 2016 at 8:30 a.m.
Conference Room: 329

Dear Chair Belatti and Members of the Committee on Health:

We submit this testimony on behalf of Walgreen Co. (“Walgreens”). Walgreens operates stores at more than 8,200 locations in all 50 states, the District of Columbia and Puerto Rico. In Hawaii, Walgreens now has 20 stores on the islands of Oahu, Maui and Hawaii.

Walgreens respectfully **opposes** section 1, subsection (c) of S.B. 2376, S.D.1, which would establish a tiered dispensing fee for non-network retail community pharmacies. As drafted, subsection (c) would mandate that non-network retail community pharmacies be reimbursed a \$15 dispensing fee plus the prescription drug product cost at the higher rate of reimbursement for prescriptions dispensed to a beneficiary who chooses a non-network retail community pharmacy 10 or more miles away from the nearest retail community pharmacy that is part of the PBM’s retail pharmacy network. Walgreens believes that establishing a dispensing fee in statute would create inequity between non-network retail community pharmacies and network pharmacies by establishing a dispensing fee by statute as opposed to by contract.

Thank you for the opportunity to submit testimony on this measure.

Gary M. Slovin
Mihoko E. Ito
C. Mike Kido
Tiffany N. Yajima

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March 16, 2016

To: The Honorable Della Au Belatti
Chair, House Committee on Health

From: 'Ohana Health Plan
Danny Cup Choy, Government & Community Affairs Manager

Re: SB 2376, SD1, Relating to Prescription Drug Benefits; **Oppose**
March 16, 2016; Conference Room 329

'Ohana Health Plan ('Ohana) is a member of the WellCare Health Plans, Inc.'s ("WellCare") family of companies and provides healthcare for Hawai'i residents statewide. Since 2009, 'Ohana has utilized WellCare's national experience to develop a Hawai'i -specific care model that addresses local members' healthcare and health coordination needs. By focusing on the state's Medicaid and Medicare population, 'Ohana serves Hawaii's most vulnerable residents: low-income, elderly, disabled, and individuals with complex medical issues. Our mission is to help our members' lead better, healthier lives.

'Ohana Health Plan **opposes** SB 2376, SD1, which authorizes a beneficiary of a prescription drug benefit plan to obtain a prescription without penalty from a non-network retail community pharmacy located within ten miles of the beneficiary's residence, if the nearest network retail community pharmacy is located ten or more miles away.

While we appreciate the intent of this measure, we would like to provide the following concerns. A health plan's ability to manage its pharmacy network is important for the quality and cost to the entire health system. Allowing non-network pharmacies to be able to dispense medication could weaken our ability ensure our members receive safe and cost effective care.

In addition, allowing a non-participating pharmacy to submit a claim and be reimbursed at a non-negotiated rate would eliminate any incentive for pharmacies to join a health plan network. This would undermine our ability to build a quality, cost-effective pharmacy network to best serve our members.

Thank you for the opportunity to submit testimony on this measure.



March 16, 2016

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

Re: SB 2376, SD1 – Relating to Prescription Drug Benefits

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

The Hawai'i Association of Health Plans (HAHP) respectfully submits comments in opposition to SB 2376, SD1, which authorizes a beneficiary of a prescription drug benefit plan to obtain a prescription without penalty from a non-network retail community pharmacy located within ten miles of the beneficiary's residence, if the nearest network retail community pharmacy is located ten or more miles away.

While we appreciate the intent of this measure, we are concerned that this bill would negatively impact the quality management aspect of a health plan's pharmacy network. A health plan's ability to manage its medical, pharmacy, and dental provider network is essential in maintaining an effective and cost-efficient healthcare system for our members.

If a claim from non-participating pharmacies are to be treated as if they are participating, it would eliminate any incentive for pharmacies to join a health plan network. This would result in additional cost to the overall health system.

Thank you for allowing HAHP to testify in opposition to SB 2376, SD1.

Sincerely,

Wendy Morriarty, RN, MPH
Chair, HAHP Public Policy Committee

Cc: HAHP Board Members



An Independent Licensee of the Blue Cross and Blue Shield Association

March 16, 2016

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

Re: SB 2376, SD1 - Relating to Prescription Drug Benefits

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2376, which would authorize plan members to obtain a prescription from a non-network pharmacy when a network pharmacy is not located within 10 miles of the member's residence. In addition, this Bill specifies that the non-network pharmacy will be reimbursed a \$15 dispensing fee plus the product cost at the highest rate of reimbursement. While we appreciate the intent of this measure, HMSA respectfully opposes this Bill.

Network-based managed care plans, whether for pharmacy, medical, or dental services, are essential for an efficient health care system. We need health professionals, including pharmacists, who appreciate the value of, and their role in, our patient-centered medical home model of health care delivery.

This Bill may impede quality management of our provider network as more scrutiny may be necessary. This would result in additional administrative costs to the healthcare system. An even more serious concern is the provision specifying the \$15 dispensing fee and the rate of reimbursement. Such a provision interferes with the contractual relationship between the health plan and the pharmacy. It impedes a health plan's ability to negotiate a fair and comprehensive reimbursement rate, while still tempering the cost to the system.

It will impact all health plans, including QUEST and the EUTF.

HMSA appreciates the desire to ensure access to pharmacy coverage, particularly in our neighbor island rural communities. The overwhelming majority of our members currently enjoy reasonable access to a pharmacy. For example, on Hawaii Island, 95% of our Medicaid members, 96.3% of our Medicare members, 94.8% of our commercial members, and 93.8% of our ACA Exchange members have access to a pharmacy within a 10-mile radius of their homes.

Given these concerns, we believe this Bill is unnecessary and potentially detrimental to efforts to create a balanced healthcare system.

Thank you for the opportunity to testify on SB 2376, SD1. Your consideration of our concerns is appreciated.

Sincerely,

Jennifer Diesman
Vice President, Government Relations



Eric P. Douglas
Senior Director, Government Affairs

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The Honorable Della Au Belatti
Chair, House Committee on Health

Wednesday, March 16, 2016
Conference Room 329; 8:30 AM

RE: SB 2376 SD1 – Relating to Prescription Drug Benefits - OPPOSE

Aloha Chair Belatti, Vice Chair Creagan and members of the Committee:

CVS Health opposes SB 2376 SD1 and respectfully asks the Committee to hold this bill. SB 2376 SD1, sets up a framework that undermines the very fabric of a healthcare network, by literally creating incentives for pharmacies not to be health plan or Pharmacy Benefit Manager networks. As background, CVS Health's Pharmacy Benefit Management ("PBM") division, CVS Caremark, maintains a robust retail pharmacy network for our PBM clients encompassing in excess of 92 percent of all pharmacies in Hawaii and over 70,000 pharmacies nationally. We are concerned that SB 2376 SD1, however well intended it may be, will inevitably increase overall healthcare costs to plan members in Hawaii, and the bill also likely increases upfront, out of pocket costs to certain plan members and would definitely serve as a deterrent toward utilization of cost saving measures adopted by plan sponsors (i.e. health plans, Taft-Hartley trusts, state employee/retiree plans, etc.).

Specifically, we would like to highlight the following for your consideration:

- Healthcare networks are key to not only access and affordability but also safety. When health plans and PBMs have a contract with a pharmacy provider, the provider must meet certain obligations, e.g. hours of operation, proof of licensure, right to inspect/audit, formulary/plan design standards, and many other aspects that are directly or indirectly related to patient safety. SB 2376 SD1 threatens to seriously erode this framework by creating a mandated contract that bypasses all cost and safety control measures.
- The mandate of a \$15 per prescription dispensing fee as a floor is three times higher than the Fee For Service ("FFS") Medicaid Dispensing fee in Hawaii—Medicaid FFS typically being a higher payor as due to the complexity of Medicaid claims and the open nature of a FFS Medicaid network. This fee is extreme even for Medicaid, and simply not at all reflective of existing commercial rates. The bill also mentions an unworkable "higher rate of reimbursement" on the drug product itself, which is not reflective of how a prescription drug reimbursement formula works.
- Very few retail pharmacies in Hawaii are not in the CVS/caremark PBM network and a pharmacy may join the CVS Caremark network, or any other PBM/health plan network at any time for that matter. However, if SB 2376 SD1 were to pass we are unsure how it would serve as a convenience to patients or could even be implemented. If a pharmacy is not part of the CVS Caremark network and has no contract with us, an Rx claim would be forced to be billed to the patient as a cash prescription. This results in having the patient chase their own claim back through their insurer, and if the insurer must pay whatever the pharmacy has charged this will necessarily result in an increase in overall healthcare costs in Hawaii. Also, as a non-network pharmacy, they cannot access patient Rx history or plan formulary because they will not have access to our network.



Longs Drugs

- Pursuant to HB65/Act 226 of 2013 every retail pharmacy in Hawaii is eligible to be in any health plan or PBM network, CVS Caremark included. Any retail pharmacy that is not within our PBM network has made a conscience business decision not to join a retail pharmacy network—therefore, SB 2376 SD1 is adverse to the pharmacies that have made a decision to join a retail pharmacy network. It has the potential to negate all of the cost-savings measures and health benefits such as DUR, adherence/compliance and generic utilization targets such networks ensure along with it.
- Depending on the total volume of prescriptions and the overall monetary impact of prescriptions eligible under SB 2376 SD1, the potential exists for higher costs passed on to health plans, which can trigger a need to review the underwriting and rates, again directly and negatively impacting consumers and plan beneficiaries. The mandated \$15 dispensing fee will result in large increases in healthcare expenses for plans, including plans that are state funded, e.g. Medicaid or state employee plans.

CVS Health proudly operates as the largest pharmacy chain in Hawaii, under our Longs Drugs banner and we also offer our patients and clients a wide range of comprehensive, integrated pharmacy and health operations statewide including: Pharmacy Benefit Management (PBM) services (CVS Caremark), Specialty Pharmacy (CVS Specialty), Mail-Order and Retail Pharmacy (CVS Pharmacy/Longs Drugs), Retail Health Clinics (CVS Minute Clinic) and a warehousing distribution center.

We thank you for your consideration of our comments in opposition to the measure and ask that the Committee hold SB 2376 SD1 for the aforementioned reasons.

Respectfully,

A handwritten signature in black ink that reads "Eric P. Douglas". The signature is written in a cursive, flowing style.

Eric P. Douglas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 3:41 PM
To: HLTtestimony
Cc: rontthi@gmail.com
Subject: Submitted testimony for SB2376 on Mar 16, 2016 08:30AM

SB2376

Submitted on: 3/14/2016

Testimony for HLT on Mar 16, 2016 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Taniguchi, Pharm.D.	Individual	Support	No

Comments: This is about the access to prescription medications and professional counseling for patients in rural areas of the state primary to the welfare of plan sponsors, PBM's and other intermediaries protective of their "fiduciary responsibilities."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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