



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

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

February 6, 2015

TO: The Honorable Josh Green, M.D., Chair
Senate Committee on Health

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

FROM: Rachael Wong, DrPH, Director

SUBJECT: **S.B. 924 - RELATING TO HEALTH COVERAGE FOR BRAIN INJURIES**

Hearing: Thursday, February 6, 2015; 1:15 p.m.
Conference Room 414, State Capitol

PURPOSE: The purpose of the bill is to require certain insurance contracts and plans to provide coverage beginning 1/1/2016 for treatment of brain injuries, including cognitive and neurocognitive therapy, neurobehavioral and neuropsychological testing or treatment, and necessary post-acute transition services or community reintegration activities for a period of at least twenty years from the date the injury occurred and up to a lifetime cap per person of \$300,000.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) provides comments on this measure.

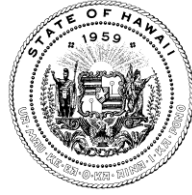
The DHS recognized the importance of cognitive behavior therapy and provides this service to Medicaid recipients who meet criteria. Recipients will receive cognitive behavioral services as long as it is determined to be medically necessary and the recipients are eligible for

coverage under Medicaid. Medicaid also covers all medically necessary care for children, including treatment for traumatic brain injury under the Early Periodic Screening, Diagnosis and Treatment (EPSDT) requirements.

The services listed in this measure are not detailed enough to determine the scope of services and, for adults, may not be a covered service by Medicaid. If the service is not covered by Medicaid but the health plans contracted with the DHS are required to provide them as a result of this bill, those proposed services would have to be state-only funded and the DHS will require an additional appropriation.

Alternatively and to provide clarity, the DHS respectfully recommends the measure specifies that the Medicaid program is excluded from this bill's requirement.

Thank you for the opportunity to testify on this bill.



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON HEALTH
AND COMMERCE AND CONSUMER PROTECTION

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Friday, February 6, 2015
1:15 p.m.

**TESTIMONY ON SENATE BILL NO. 924 – RELATING TO HEALTH COVERAGE
FOR BRAIN INJURIES.**

TO THE HONORABLE JOSH GREEN, M.D. AND ROSALYN H. BAKER, CHAIRS,
AND MEMBERS OF THE COMMITTEES:

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 this bill but submits the following comments.

The purpose of this bill is to add a mandated health insurance benefit for treatment of brain injuries, including cognitive and neurocognitive therapy, neurobehavioral and neuropsychological testing or treatment, and necessary post-acute transition services or community reintegration activities for a period of at least twenty years from the date the injury occurred and up to a lifetime cap per person of \$300,000.

The addition of a new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (“PPACA”), which requires states to defray the additional cost of any benefits in excess of the essential health benefits of the state’s qualified health plan under PPACA.

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DCCA Testimony of Gordon I. Ito
Page 2

We also note that any proposed mandated health insurance coverage requires the passage of a concurrent resolution requesting the State Auditor to prepare and submit a report assessing the social and financial impacts of the proposed mandate, pursuant to Hawaii Revised Statutes section 23-51. Therefore, we respectfully request that Section 6 of the bill be amended so that the State Auditor and not the Department is tasked with the duty of reporting on the economic impact of the expanded coverage on affected insurers.

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



HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE SENATE THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2015

Committee on Health Committee on Commerce and Consumer Protection Testimony on S.B. 924 Relating to Health Coverage For Brain Injuries

**Friday, February 6, 2015, 1:15 P.M.
Conference Room 414**

Chair Green, Chair Baker and Members of the Committees:

The purpose of the bill is to require insurance companies to provide coverage for brain injuries. This is an important issue and this coverage is appropriate for insurance policies. The whole point of insurance is to spread risk and cost among an entire population, so that disproportionate, catastrophic expenses are not heaped upon specific individuals or groups.

Awareness of brain injury, both traumatic and acquired, has increased exponentially in the past ten to fifteen years. For a long time, individuals with brain injuries truly represented a gap group in terms of receiving services from the state. Despite some overlap in their presenting symptoms, they did not possess the requisite diagnoses to fit into the DD/MR waiver or receive services from the Department of Health AMHD.

Today, however, virtually everybody has heard the expression that traumatic brain injury is the signature wound of the wars around the world. In light of its ever increasing prevalence, it is important to comprehensively address it and provide the necessary coverage to receive appropriate treatment that can help people make the maximum possible recovery. In general, receiving immediate acute hospital care has not been a particular issue. What has been lacking has been coverage for rehabilitation care following the hospitalization and then further treatment such as cognitive therapy. This bill outlines a very good range of treatments that have proven effective to assist in recuperating from brain injuries.



Inasmuch as brain injuries have unfortunately become common and the costs are so high, insurance coverage is appropriate as a mechanism to spread the risk and cost amongst all of us. Therefore, this bill would seem to be a good approach to addressing this problem.

Thank you for the opportunity to testify on this measure.

Testimony of
John M. Kirimitsu
Legal and Government Relations Consultant

Before:
Senate Committee on Health
The Honorable Josh Green, Chair
The Honorable Glenn Wakai, Vice Chair
and
Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair

February 6, 2015
1:15 pm
Conference Room 414

Re: SB 924 Relating to Health Coverage for Brain Injuries

Chairs, Vice Chairs, and committee members, thank you for this opportunity to provide testimony on this bill mandating insurance coverage for certain therapy and services to treat survivors of traumatic brain injuries.

Kaiser Permanente Hawaii opposes this bill in its current draft.

This issue of mandating insurance coverage for cognitive rehabilitation for survivors of traumatic brain injuries has a long standing history before the Hawaii legislature. In 2004, the Hawaii legislature requested an audit assessment on the social and financial impact of mandating insurance coverage for cognitive rehabilitation for those with traumatic brain injuries. In that study, the Auditor failed to make any recommendations because “more conclusive information is needed before mandated health insurance requirements are enacted.” The Auditor’s inconclusive findings were based upon the following determinations:

- “Current literature indicates scientific studies are on-going, and existing studies have not definitely determined the efficacy of cognitive rehabilitation for traumatic brain injuries. Much of the research has been largely anecdotal. Definitive scientific studies are still in their infancy, and part of the problem with existing studies is the lack of a standard definition for cognitive rehabilitation.”
- “According to an official at the State Department of Health, there is currently no standard operational definition of cognitive rehabilitation.”

- “In addition to the lack of more conclusive studies, conflicting survey results from consumers and insurance companies led us to conclude that the social and financial impact of health insurance coverage for cognitive rehabilitation for traumatic brain injury cannot be determined at this time.”
- “An example of a conflicting response is in the area of the level of public demand for the treatment or service. For the most part, consumers indicated a moderate to significant demand for services, while insurers indicated little to no demand.”

The complete Legislative Reference Bureau report and its findings may be viewed at <http://files.hawaii.gov/auditor/Reports/2004/04-11.pdf>

As repeatedly noted by the auditor, the bill’s overbroad definition of “cognitive rehabilitation” is problematic. The auditor concluded that “Without a standard definition, it is difficult to identify, study, and quantify the various therapies that can make up cognitive rehabilitation to determine its social and financial impact.” The auditor acknowledged that the lack of a standardized definition makes it difficult to gather data. For health insurers, the primary method to identify diagnosis and treatments for claims purposes is to analyze treatment codes. These procedural codes offer concise descriptions of each diagnosis or type of treatment with an attached identification number. However, overly broad references to “cognitive rehabilitation” treatments, such as “neurobehavioral treatment” and “neurocognitive therapy and rehabilitation,” are too general to be associated with particular treatment codes. Therefore, the uncertain definition of “cognitive rehabilitation” makes it difficult to determine which services would be included.

Currently, Kaiser Permanente provides certain cognitive treatment, i.e. helping a patient to improve memory skills, problem solving strategies, visual tracking/processing, compensatory techniques, etc., which is integrated with other therapies, such as occupational, speech, and physical therapy as part of its rehabilitation services. As part of its rehabilitation services, Kaiser Permanente also offers community integration as part of functional activity training in the clinic by working with patients to simulate situations that may occur in the community, i.e., shopping, social interactions, using a computer, etc.

Therefore, Kaiser Permanente concurs with the auditor that the enactment of this mandate is premature until: (1) a standard definition of “cognitive rehabilitation” is determined, and (2) more scientific evidence on the efficacy of treatments are made available.

Thank you for the opportunity to comment.

From: jsls@hawaiiantel.net
To: [HTHTestimony](#)
Cc: [Sen. Josh Green](#)
Subject: Fwd: Re: Hearing HTH-CPN 02-06-15
Date: Wednesday, February 04, 2015 11:33:52 PM

Subject:Re: Hearing HTH-CPN 02-06-15

HAWAII STATE SENATE
COMMITTEE ON HEALTH
COMMITTEE ON COMMERCE & CONSUMER PROTECTION
HEARING
February 6, 2015, 1:15 pm

Testimony in support of
SB 924, Relating to Brain Injuries

TO COMMITTEE CHAIRS JOSH GREEN AND ROSALYN BAKER, AND MEMBERS OF THE
COMMITTEES:

Thank you for the opportunity to provide testimony in support of SB 924, which mandates health insurers to cover cognitive rehabilitation for people with brain injuries.

I, Lenora Springer, am a member of the Brain Injury Association of Hawaii (BIA-HI). A friend of mine, Albert Burian, sustained a brain injury about 20 years ago. When i was in nursing school, I met him at a meeting of the BIA-HI, where I have met a number of people with brain injuries from falls, traffic & pedestrian accidents, domestic violence and similar circumstances. i, myself, have suffered brain injury from falls and an auto accident.

Brain injury changes not only the life of the individual completely, but the lives of his/her family members as well. Depending on what part of the brain gets injured, the individual may suffer physical, cognitive or behavioral problems, and what is so sad about it is that very few rehabilitative services are available and affordable in Hawaii for the survivors after the initial acute care phase.

I urge you to pass SB 924. It will help brain injury survivors get the necessary and affordable services.

Respectfully Submitted,
Lenora Springer
2749 Tantalus Drive
Honolulu, HI 96813

