



DEPT. COMM. NO. 144

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December 29, 2016

The Honorable Ronald D. Kouchi
President and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

For your information and consideration, I am transmitting copies of the legislative report concerning accountable care organizations and direct primary care or concierge medicine in the State prepared by the Insurance Division of the Department of Commerce and Consumer Affairs as requested by House Concurrent Resolution No. 157, S.D. 1, adopted during the Regular Session of 2016. In accordance with section 93-16, Hawaii Revised Statutes, a copy of this report has been transmitted to the Legislative Reference Bureau Library and the report may be viewed electronically at <http://cca.hawaii.gov/ins/reports/>.

Sincerely,

CATHERINE P. AWAKUNI COLÓN
Director

Enclosure



**Report Regarding Accountable Care Organizations in
Accordance with HCR 157, S.D. 1**

Prepared by the
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII
December 2016

Introduction

House Concurrent Resolution 157, S.D. 1 (“HCR 157”), adopted during the Regular Session of 2016, requested the Department of Commerce and Consumer Affairs (“DCCA”), Insurance Division (“Division”) to “collaborate with the medical professional community on a survey to determine the extent of the development of accountable care organizations and direct primary care or concierge medicine within the community and the impact of these business arrangements on the ability of patients to access primary care services in the State.” HCR 157 is attached to this report as Appendix A.

Specifically, HCR 157 requested a survey of the following:

- (1) The extent to which accountable care organizations (“ACOs”) providing primary care services have developed in Hawai’i;
- (2) The extent to which health care providers, including the total number and type of each health care provider, are participating in ACOs;
- (3) The extent to which patients, including the total number of patients served by each type of insurance plan, such as private insurance, Medicare, or Medicaid, are provided primary care through ACOs;
- (4) The extent to which direct primary care or concierge medicine has penetrated the Hawai’i health care marketplace;
- (5) The extent to which health care providers, including the total number and type of each health care provider, are participating in direct primary care or concierge medicine arrangements;

The extent to which patients, including the total number of patients served by each type of insurance plan, such as private insurance, Medicare, or

Medicaid, are provided primary care through direct primary care or concierge medicine practices; and

- (6) The extent to which ACOs and direct primary care or concierge medicine have either increased or decreased the access of Medicare or Medicaid patients to primary care services in the State.

HCR 157 further requested the Division submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than 20 days before the Regular Session of 2017 convenes.

Overview of Accountable Care Organizations

What are ACOs?

ACOs are networks of physicians, specialists, hospitals, and other health care providers that share financial and medical responsibility for patients in an effort to provide coordinated, high quality primary care by avoiding unnecessary duplication of services and by preventing unnecessary hospitalizations.¹

Why ACOs?

As noted in HCR 157, there are currently 238,000 Hawai'i residents, or 18.7% of Hawai'i's total population, aged 60 or older,² and it is projected that by year 2030, this age group will comprise 27.4% of the population. A large aging population will have a significant impact on the delivery of health care, with a shift from acute to chronic care.³

Medicare is the federal health insurance program that provides coverage to individuals aged 65 or older, or to younger individuals with disabilities. Seventeen

¹ Medicare Shared Savings Program, 42 C.F.R. §425.20 (2015). HCR 157.

² HCR 157.

³ Id.

percent of Hawai'i's population is enrolled in Medicare⁴, which is funded primarily from general revenues (42%), payroll taxes (37%), and beneficiary premiums (13%).⁵ Funding of Medicare becomes more of a challenge as the federal deficit grows, the baby boomer generation enters retirement age, and aging individuals live longer. In 2015, spending on Medicare accounted for 15% of the federal budget.⁶

To curtail rising Medicare costs, the Affordable Care Act included a provision enabling the Centers for Medicare and Medicaid Services to create a Medicare Shared Savings Program ("MSSP").⁷ The MSSP encourages providers of services and supplies to create a new type of health care entity, such as an ACO,⁸ that agrees to be held accountable for the quality and experience of care for a population of assigned Medicare beneficiaries, while reducing the rate of growth in health care spending for that population.⁹ Coordinated care often costs less because it ensures the patient receives the right care at the right time, avoids unnecessary duplication of services, and prevents medical errors.¹⁰

⁴ "The Kaiser Family Foundation's Medicare Beneficiaries as a Percent of Total Population." Data Source: Centers for Medicare and Medicaid Services ("CMS"), CMS Program Statistics. "Annual Estimates of the Resident Population for the United States." Data Source: U.S. Census Bureau. Data includes aged and/or disabled individuals enrolled in Medicare Part A and/or B through Original Medicare or Medicare Advantage and Other Health Plans during the 2015 calendar year.

⁵ "The Kaiser Family Foundation's Facts on Medicare Spending and Financing." Data Source: Congressional Budget Office, Updated Budget Projections 2016-2016.

⁶ Id.

⁷ Section 3022 of the ACA added section 1899 to the Social Security Act, requiring CMS to establish the Medicare Shared Savings Program.

⁸ For purposes of federal regulation, an ACO is an organization that has managed the health care needs of at least 5,000 Medicare beneficiaries for at least three years. 42 CFR §425.20.

⁹ See CMS' "Summary of the June 2015 Final Rule Provisions for Accountable Care Organizations (ACOs) under the Medicare Shared Savings Program." ICN 907404 (March 2016).

¹⁰ Id.

Overview of Concierge Medicine

What is Concierge Medicine?

Concierge medicine is a relationship in which the patient pays an annual fee or a retainer to a primary care physician. The annual fee or retainer may or may not be charged in addition to other fees. In exchange for the retainer, the primary care physician provides enhanced care, including a commitment to limit patient loads to ensure adequate time and availability for each patient.

This practice has been referred to as concierge medicine, retainer medicine, membership medicine, cash-only practice, and direct care. While all “concierge” medicine practices share similarities, they vary widely in their structure, payment requirements, and form of operation. In particular, they differ in the level of service provided and the fee charged. Estimates of U.S. doctors practicing concierge medicine range from fewer than 800 and up to 5,000.¹¹ Medicare providers may offer their Medicare patients concierge services but must do so in a manner that complies with all Medicare rules. Medicare does not cover the fees for non-Medicare services provided as part of a concierge medicine arrangement, nor does Medicare cover any membership or retainer fees for concierge care.¹²

¹¹ Elizabeth Hargrave, et al., “Retainer-Based Physicians: Characteristics, Impact, and Policy Considerations.” (March 2010).

A study conducted by staff from the National Opinion Research Center at The University of Chicago and Georgetown University for the Medicare Payment Advisory Commission. MedPAC Task Order E4058967.

Catherine Sykes & Michael Tetreault, “Concierge Medicine 101.” (2013) Concierge Medicine Today. <https://conciergemedicineneeds.files.wordpress.com/2014/04/concierge-medicine-101.pdf>.

¹² See <https://www.medicare.gov/coverage/concierge-care.html#1286>.

Stakeholder Collaboration

HCR 157 requested the Division collaborate with the Board of Medicine, the Hawai'i Medical Association, the Healthcare Association of Hawai'i, and independent physicians associations to gather information requested for the survey. The following stakeholders were contacted for purposes of the survey:

(1) Hawai'i Medical Association ("HMA")

The HMA is a voluntary professional membership organization for physicians, resident physicians, and medical students in Hawai'i. The HMA is part of the American Medical Association and the parent organization for Hawai'i's five component medical societies that operate independently but in a network with the HMA.

(2) Healthcare Association of Hawai'i ("HAH")

The HAH has 160 member organizations that include all of the acute care hospitals in Hawai'i, all public and private skilled nursing facilities, all Medicare-certified home health agencies, all hospices, all assisted living facilities, durable medical equipment suppliers, and home infusion/pharmacies. Members also represent other healthcare providers that provide such services as case management, air and ground ambulance, blood bank, and dialysis.

The HAH's primary focus is to work with healthcare executives and their employees on industry issues, such as advocacy (in D.C. and Hawai'i), quality and reimbursement improvement, strategic education, emergency preparedness, public relations, shared savings, and reducing

costs.

(3) Hawai'i Independent Physician Association ("HIPA")

The HIPA is an association of 800 independent physicians that collectively address trends and issues that negatively impact their patients and profession.

(4) DCCA, Board of Medicine

The Board of Medicine is part of the DCCA Professional & Vocational Licensing Branch and is responsible for medical and osteopathy (M.D., D.O., podiatrist, physician assistant, EMT-B, and EMT-P) licensing matters. The Board of Medicine works to protect the public's health, safety, and welfare through the proper licensing, disciplining, and regulation of physicians. In addition, the Board of Medicine investigates complaints, disciplines those who violate the law, conducts physician evaluations, and facilitates rehabilitation of physicians when appropriate. It also adopts policies and guidelines related to the practice of medicine and seeks to improve the overall quality of healthcare in the State.

Survey

The Division developed and distributed a survey. The Division reached out to all stakeholders named in HCR 157 and independent physician organizations to help distribute the survey. A copy of the survey is attached to this report as Appendix B.

Survey Results

The Division is in the process of collecting information regarding the: 1) extent of the development of ACOs and direct primary care or concierge medicine; and 2) impact these business arrangements have on a patient's ability to access primary care services. The Division will add supplemental findings to this report when more survey results are received.

Preliminary survey results are inconclusive in determining the extent to which ACOs and direct primary care or concierge medicine have impacted patient access to primary care services, due to unreliable data collection methodology and a survey response rate of less than 10%. One physician indicated nine (9) accountable care entities and ten (10) or eleven (11) concierge practices in Hawai'i. However, the larger stakeholder community may not utilize the terms "ACOs", "direct primary care", and "concierge medicine" in the same manner.

This survey was necessary because it provided a starting point for data collection regarding patient access to primary care services in Hawai'i. Further study would provide insight into a subject area that has not been comprehensively explored in Hawai'i. Accordingly, it is recommended that additional information be collected and compiled before any legislative proposals be contemplated.

Recommendations

This survey is a preliminary look at the expanse and utilization of ACOs and direct primary care or concierge medicine in Hawai'i. Due to the current lack of information, the Division is unable to make any recommendations to the Legislature. If the Legislature would like to continue examining ACOs and concierge medicine, a working group of

ACOs, direct primary care or concierge medicine providers, Medicaid health plan administrators, and Medicare health plan administrators should be established to further analyze the impact of ACOs and concierge medicine on primary care services for those receiving care through private insurance, Medicare, and Medicaid.

APPENDIX A

HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

H.C.R. NO. 157
S.D. 1

HOUSE CONCURRENT
RESOLUTION

REQUESTING THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO COLLABORATE WITH THE MEDICAL PROFESSIONAL COMMUNITY ON A SURVEY TO DETERMINE THE EXTENT OF THE DEVELOPMENT OF ACCOUNTABLE CARE ORGANIZATIONS AND DIRECT PRIMARY CARE OR CONCIERGE MEDICINE WITHIN THE COMMUNITY AND THE IMPACT OF THESE BUSINESS ARRANGEMENTS ON THE ABILITY OF PATIENTS TO ACCESS PRIMARY CARE SERVICES IN THE STATE.

1 WHEREAS, the health care industry, nationally and
2 statewide, is undergoing tremendous reform and changes prompted
3 by the passage of the federal Patient Protection and Affordable
4 Care Act of 2010 (Affordable Care Act); and

5
6 WHEREAS, the development of accountable care organizations
7 are included in these reforms and changes; and

8
9 WHEREAS, accountable care organizations are networks of
10 physicians, specialists, hospitals, and other health care
11 providers that share financial and medical responsibility; and

12
13 WHEREAS, the goal of accountable care organizations is to
14 provide coordinated, high quality primary care to patients while
15 avoiding unnecessary duplication of services and preventing
16 unnecessary hospitalizations; and

17
18 WHEREAS, the Affordable Care Act created accountable care
19 organizations to take part in the Medicare Shared Savings
20 Program and other federal programs to help physicians,
21 hospitals, and other health care providers better coordinate
22 care for Medicare patients; and

23
24 WHEREAS, although the creation of accountable care
25 organizations is intended to save money and provide better
26 primary care to patients, some health care economists have



1 expressed concern that the formation of more accountable care
2 organizations could leave fewer independent hospitals and
3 doctors, which could potentially limit patient choice and access
4 to primary care services; and

5
6 WHEREAS, the development of direct primary care or
7 concierge medicine has also grown nationally and in this State;
8 and

9
10 WHEREAS, concierge medicine involves a relationship between
11 a patient and a primary care physician in which the patient pays
12 an annual fee or retainer, which may be in addition to other
13 charges; and

14
15 WHEREAS, although high-end concierge medicine practices may
16 bill insurers for medical services in addition to collecting
17 retainer fees, lower-end concierge medicine practices usually do
18 not accept insurance but instead charge patients directly for
19 treatment along with membership and may post menu-style prices
20 for services and expect payment up front; and

21
22 WHEREAS, eliminating insurance billing may eliminate a
23 significant portion of a concierge physician's overhead
24 expenses, which enables concierge physicians to keep their fees
25 low, take on fewer patients, and spend more time with each
26 patient; and

27
28 WHEREAS, many patients who see concierge physicians pay for
29 this care in addition to their regular insurance, with the
30 rationale that under the Affordable Care Act, many new health
31 plans have high deductibles that most members will never meet,
32 which means these patients would still be paying thousands of
33 dollars out-of-pocket, and possibly even more than what they
34 would spend on concierge medicine; and

35
36 WHEREAS, although fees for direct primary care or concierge
37 medicine may be lower than traditional insurance, there are some
38 concerns regarding the overall affordability of concierge
39 medicine, including the impact it may have on Medicaid and
40 Medicare patients; and

41
42 WHEREAS, currently, 238,000 Hawaii residents, constituting
43 18.7 per cent of Hawaii's total population, are aged sixty or
44 older, and by 2030, this age group is projected to constitute



1 more than one-fourth, or 27.4 per cent, of the State's
2 population; and

3
4 WHEREAS, while Hawaii's population is expected to increase
5 by 21 per cent between 2000 and 2030, the number of people sixty
6 years or older is expected to increase by 93.8 per cent and the
7 number of people eighty-five years or older is expected to
8 increase by 174.7 per cent during the same period; and

9
10 WHEREAS, the large aging population is having, and will
11 continue to have, a major impact on the organization and
12 delivery of health care, with a shift from acute to chronic
13 illnesses, such as heart disease, cancer, stroke, chronic lower
14 respiratory diseases, Alzheimer's disease, and diabetes; and

15
16 WHEREAS, Medicare is the national health insurance program
17 that offers coverage for outpatient health care services, such
18 as primary care doctor visits and certain preventative services,
19 for the majority of the population aged sixty-five or older, or
20 younger than age sixty-five with a qualifying disability or
21 illness; and

22
23 WHEREAS, as of December 2015, over 338,000 individuals were
24 enrolled in the State's Medicaid program and Children's Health
25 Insurance Program; and

26
27 WHEREAS, enrollees of Hawaii's Medicaid program and
28 Children's Health Insurance Program receive access to health and
29 medical services, including critical primary and acute care
30 services, through managed care plans contracted by the State's
31 Med-QUEST Division; and

32
33 WHEREAS, the Department of Commerce and Consumer Affairs
34 performs a variety of functions for the benefit of consumers,
35 businesses, and the general population of the State; and

36
37 WHEREAS, the Department's Insurance Division is responsible
38 for overseeing the insurance industry in the State and ensuring
39 that consumers are provided with insurance services, including
40 services relating to health care, that meet acceptable standards
41 of quality, equity, and dependability at fair rates; and
42



1 WHEREAS, the Insurance Division is uniquely positioned to
2 help identify problems and devise improvements to the delivery
3 of health care in the State; now, therefore,
4

5 BE IT RESOLVED by the House of Representatives of the
6 Twenty-eighth Legislature of the State of Hawaii, Regular
7 Session of 2016, the Senate concurring, that the Insurance
8 Division of the Department of Commerce and Consumer Affairs is
9 requested to collaborate with the medical professional community
10 on a survey that identifies the extent to which:
11

- 12 (1) Accountable care organizations providing primary care
13 services have developed in this State;
14
- 15 (2) Health care providers, including the total number and
16 type of each health care provider, are participating
17 in accountable care organizations;
18
- 19 (3) Patients, including the total number of patients
20 served by each type of insurance plan, such as private
21 insurance, Medicare, or Medicaid, are provided primary
22 care through accountable care organizations;
23
- 24 (4) Direct primary care or concierge medicine has
25 penetrated the Hawaii health care marketplace;
26
- 27 (5) Health care providers, including the total number and
28 type of each health care provider, are participating
29 in direct primary care or concierge medicine
30 arrangements;
31
- 32 (6) Patients, including the total number of patients
33 served by each type of insurance plan, such as private
34 insurance, Medicare, or Medicaid, are provided primary
35 care through direct primary care or concierge medicine
36 practices; and
37
- 38 (7) Accountable care organizations and direct primary care
39 or concierge medicine have either increased or
40 decreased the access of Medicare or Medicaid patients
41 to primary care services in the State; and
42

43 BE IT FURTHER RESOLVED that the Insurance Division is
44 requested to collaborate with the Board of Medicine, Hawaii



1 Medical Association, Healthcare Association of Hawaii, and
2 independent physicians associations for purposes of gathering
3 the appropriate information requested for the survey; and
4

5 BE IT FURTHER RESOLVED that the Insurance Division is also
6 requested to review government websites and information from
7 government agencies, as needed, for purposes of gathering the
8 appropriate information requested for the survey; and
9

10 BE IT FURTHER RESOLVED that the Insurance Division is
11 further requested to submit a report of its findings and
12 recommendations, including any proposed legislation, to the
13 Legislature no later than twenty days before the convening of
14 the Regular Session of 2017; and
15

16 BE IT FURTHER RESOLVED that certified copies of this
17 Concurrent Resolution be transmitted to the Director of Commerce
18 and Consumer Affairs and the Insurance Commissioner.



APPENDIX B

THE EXTENT OF ACCOUNTABLE CARE ORGANIZATIONS AND DIRECT PRIMARY CARE OR "CONCIERGE MEDICINE" WITHIN HAWAI'I SURVEY

ACCOUNTABLE CARE ORGANIZATIONS PROVIDING PRIMARY CARE SERVICES HAVE DEVELOPED IN THIS STATE

1. Are you a member of an ACO?
2. What is the name of your organization?

HEALTH CARE PROVIDERS, INCLUDING THE TOTAL NUMBER AND TYPE OF EACH HEALTH CARE PROVIDER, ARE PARTICIPATING IN ACCOUNTABLE CARE ORGANIZATIONS

1. How many primary care physician provider types are participating in the ACO?
2. How many specialist provider types are participating in the ACO?
3. How many hospital provider types are participating in the ACO?
4. How many other provider types are participating in the ACO?

PATIENTS, INCLUDING THE TOTAL NUMBER OF PATIENTS SERVED BY EACH TYPE OF INSURANCE PLAN, SUCH AS PRIVATE INSURANCE, MEDICARE, OR MEDICAID, ARE PROVIDED PRIMARY CARE THROUGH ACCOUNTABLE CARE ORGANIZATIONS

1. How many private insurance patients receive primary care through the ACO?
2. How many Medicaid patients receive primary care through the ACO?
3. How many Medicare patients receive primary care through the ACO?

DIRECT PRIMARY CARE OR CONCIERGE MEDICINE HAS PENETRATED THE HAWAI'I HEALTH CARE MARKETPLACE

1. Do your members provide direct primary care or concierge medicine?

HEALTH CARE PROVIDERS, INCLUDING THE TOTAL NUMBER AND TYPE OF EACH HEALTH CARE PROVIDER, ARE PARTICIPATING IN DIRECT PRIMARY CARE OR CONCIERGE MEDICINE ARRANGEMENTS

1. How many members participate in direct primary care/concierge medicine?
2. How many primary care physician provider types are providing direct primary care/concierge medicine?
3. How many specialist provider types are providing direct primary care/concierge medicine?
4. How many hospital provider types are providing direct primary care/concierge medicine?
5. How many other provider types are providing direct primary care/concierge medicine?

PATIENTS, INCLUDING THE TOTAL NUMBER OF PATIENTS SERVED BY EACH TYPE OF INSURANCE PLAN, SUCH AS PRIVATE INSURANCE, MEDICARE, OR MEDICAID, ARE PROVIDED PRIMARY CARE THROUGH DIRECT PRIMARY CARE OR CONCIERGE MEDICINE PRACTICES

1. How many private insurance patients receive primary care via direct primary care/concierge medicine?
2. How many Medicare patients receive primary care via direct primary care/concierge medicine?
3. How many Medicaid patients receive primary care via direct primary care/concierge medicine?

ACCOUNTABLE CARE ORGANIZATIONS AND DIRECT PRIMARY CARE OR CONCIERGE MEDICINE HAVE EITHER INCREASED OR DECREASED THE ACCESS OF MEDICARE OR MEDICAID PATIENTS TO PRIMARY CARE SERVICES IN THE STATE

1. Have your members increased or decreased the number of Medicare or Medicaid patients seen as a result of participating in an ACO?
2. Have your members increased or decreased the number of Medicare or Medicaid patients seen as a result of providing direct primary care or concierge medicine?