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April 3, 2018

TO: The Honorable Senator Donovan M. Dela Cruz, Chair  
Senate Committee on Ways and Means

FROM: Pankaj Bhanot, Director

SUBJECT: **SCR 81 SD1 - REQUESTING THE ESTABLISHMENT OF A WORKING GROUP TO EXAMINE HOW THE DEPARTMENT OF EDUCATION CAN MAXIMIZE MEDICAID REIMBURSEMENT FOR SUPPORT SERVICES OFFERED TO ELIGIBLE STUDENTS DURING SCHOOL HOURS**

Hearing: Wednesday, April 4, 2018, 4:00 p.m.  
Conference Room 211, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of the resolutions and offers comments.

**PURPOSE:** The purpose of the resolution is that a working group be established to examine how the Department of Education can maximize Medicaid reimbursement for support services offered to eligible students during school hours, to include at least occupational and physical therapy, speech pathology, applied behavioral analysis, and other wellness supports that benefit a student's well-being and growth; and that this working group consist of administrators and/or their representatives from the Department of Education (DOE), Med-QUEST Division (MQD) of DHS, Deputy Attorneys General representing DHS and DOE or their respective designees, and Chairs of the Senate and House Committees on Education, who will also be the co-chairs of the working group.

For background information, today, DOE and MQD are already collaboratively working together to maximize Medicaid reimbursements for eligible services provided to students attending Hawaii's public school system. Currently DOE already does and continues

to actively process claims for eligible services for Medicaid covered children by licensed providers in the areas of physical therapy, occupational therapy, auditory and speech language therapy, and behavioral health services. For Fiscal Year (FY) 2017, the DOE received a total net federal reimbursement of \$324,340; with FY 2018 totaling \$172,549 to date.

In addition, DOE has been working with DHS to obtain billing rates and codes from MQD in order to receive Medicaid reimbursement for Medicaid covered services of applied behavior analysis, skilled nursing, and transportation. DOE has been tasked with identifying eligible billable services applicable in the educational setting for applied behavior analysis. To bill and claim for transportation, a Medicaid State Plan amendment is being submitted by us for approval by the Medicaid federal approving agency, the Centers for Medicare and Medicaid Services. DOE will be able to bill Medicaid for reimbursement of the aforementioned services up to twenty-four (24) months prior to the date the claim is submitted for payment.

We support your commitment to ensure that Hawaii's public school system optimizes all available opportunities to maximize Medicaid reimbursements and will continue our work with DOE to achieve this goal.

We further clarify that reimbursement from Medicaid presumes the child is eligible for and a recipient of Medicaid health insurance coverage. Medicaid reimbursement would not be available to a child who is not eligible to receive Medicaid coverage.

Thank you for the opportunity to comment on this resolution.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 04/04/2018

**Time:** 04:00 PM

**Location:** 211

**Committee:** Senate Ways and Means

**Department:** Education

**Person Testifying:** Dr. Christina M. Kishimoto, Superintendent of Education

**Title of Resolution:** SCR 081, SD1 REQUESTING THE ESTABLISHMENT OF A WORKING GROUP TO EXAMINE HOW THE DEPARTMENT OF EDUCATION CAN MAXIMIZE MEDICAID REIMBURSEMENT FOR SUPPORT SERVICES OFFERED TO ELIGIBLE STUDENTS DURING SCHOOL HOURS.

**Purpose of  
Resolution:**

**Department's Position:**

The Department of Education (Department) strongly supports SCR 081, SD1.

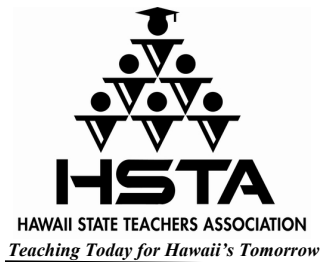
The Department is committed to maximizing Medicaid reimbursement for support services offered to eligible students. As a result of a proviso included in Act 119, Section 23 (2015), the Department established an internal working group beginning in 2015 to analyze current practices and develop a plan to pursue Medicaid reimbursement. This report was submitted to the Legislature in 2016: [http://www.hawaiipublicschools.org/Reports/LEG15\\_medicaid.pdf](http://www.hawaiipublicschools.org/Reports/LEG15_medicaid.pdf)

In the time since, the internal working group had continued its work to explore and pursue the opportunities outlined in the legislative report. This included a positive collaboration with the Department of Human Services which yielded deeper understanding and partnership on this issue.

To that end, the Department of Education welcomes the opportunity to continue this collaboration with the Department of Human Services, and to now include our Education legislative leadership, the Department of Health, and the Department of the Attorney General as we continue to work towards improved implementation of the Medicaid reimbursement program to maximize Medicaid reimbursement for medically necessary support services for the State of Hawaii.

Thank you for the opportunity to provide testimony on SCR 081, SD1.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at [www.hawaiipublicschools.org](http://www.hawaiipublicschools.org).



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Vice President  
Amy Perruso  
Secretary-Treasurer  
Wilbert Holck  
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON  
WAYS AND MEANS

RE: SCR 81, SD 1 - REQUESTING THE ESTABLISHMENT OF A WORKING GROUP TO EXAMINE HOW THE DEPARTMENT OF EDUCATION CAN MAXIMIZE MEDICAID REIMBURSEMENT FOR SUPPORT SERVICES OFFERED TO ELIGIBLE STUDENTS DURING SCHOOL HOURS

WEDNESDAY, APRIL 4, 2018

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Dela Cruz and Members of the Committees:

The Hawaii State Teachers Association **supports SCR 81, SD 1**, requesting the establishment of a working group to examine how the Department of Education can maximize Medicaid reimbursement for support services offered to eligible students during school hours.

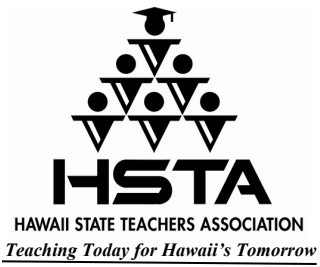
Behavior analysis means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, as well as the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop positive behaviors.

Act 199, Session Laws of Hawaii 2015, established the behavior analyst program within the Department of Commerce and Consumer Affairs and created licensing requirements for behavior analysts. Licensing of behavior analysis services was made concurrent with mandated insurance coverage for diagnosis and treatment related to autism disorders, with which nearly 1,500 public school students are currently diagnosed.

Unfortunately, the DOE is experiencing a shortage of licensed behavior analysts and, in 2016, successfully sought an amendment to state law to allow teachers to perform behavior analysis and prescribe services. Yet, teachers are not trained or qualified to make behavioral diagnoses, and being commanded to do so—some teachers have been threatened with termination for refusing to complete behavioral diagnoses for which they have no professional training—interferes with their ability to provide a quality learning environment for their students, taking time away from lesson planning, professional development and collaboration, delivery of personalized learning, and more. This resolution calls for the establishment of a working group to maximize Medicaid reimbursement for student support services, including for behavior analysis, the furtherance of which would prevent teachers from being forced to perform behavior analysis for which they are not qualified.

Medicaid reimbursement is available for behavior analysis but is not being fully utilized by the DOE. Until recently, Hawai'i was one of only two states that failed to take advantage of Medicaid funding for behavior analysis at all. Advancing Medicaid reimbursement would provide funding for the DOE to hire licensed behavior analysts, either as employees of the department or by contracting with the many private providers who are currently being denied access to the children they're qualified to serve. As stated by the DOE on its own website regarding school-based claiming, "Consistent with the State of Hawai'i's objective to maximize federal revenue for off-setting the cost of providing health and education services to children with special needs, the Hawai'i Legislature of 2005 passed Act 141. The purpose of the Act is to authorize the Department of Education (DOE) to establish and implement a federal maximization program for all Medicaid-eligible health services provided to Hawaii's school-aged children. Pursuant to the Act, the DOE became a Medicaid provider." Thus, there is no reason for department officials to continue denying or dragging their heels on accepting Medicaid funding for behavior analysis, including for privately rendered services offered during school hours.

According to *Report on Behavior Analyst and Certification Requirements Implementation*, released by the DOE on January 5th, 2018, the department is supporting efforts for 39 DOE personnel to become BCBA's in an approved program, and assisting another 145 departmental personnel in becoming Registered Behavior Technicians (RBTs) by 2019. We need to continue in this direction, rather than further weakening Luke's Law.



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Executive Director

To improve the learning experiences of our most vulnerable keiki, the Hawaii State Teachers Association asks your committee to **support** this resolution.

**SCR-81-SD-1**

Submitted on: 4/3/2018 2:55:17 PM

Testimony for WAM on 4/4/2018 4:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying for the Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments: