



December 27, 2019

VIA EMAIL

The Honorable Ronald D. Kouchi  
Senate President  
415 South Beretania Street  
Hawaii'i State Capitol, Room 409  
Honolulu, Hawaii'i 96813

VIA EMAIL

The Honorable Scott K. Saiki  
Speaker, House of Representatives  
415 South Beretania Street  
Hawaii'i State Capitol, Room 431  
Honolulu, Hawaii'i 96813

Re: Study of Proposed Mandatory Health Insurance for Clinical Victim Support Services for Victims of Sexual Violence and Abuse, Report No. 19-17

Dear President Kouchi and Speaker Saiki:

We are attaching a copy of Report No. 19-17, *Study of Proposed Mandatory Health Insurance for Clinical Victim Support Services for Victims of Sexual Violence and Abuse*, along with a copy of the Auditor's Summary. This report is being issued pursuant to Senate Concurrent Resolution No. 171, Senate Draft 1, of the 2019 Legislative Session, which requested the Auditor to assess the social and financial effects of the mandated coverage as proposed in House Bill No. 484, House Draft 2. House Bill No. 484, House Draft 2, was introduced during the 2019 Legislative Session, and would require insurers, hospital and medical services plans, and health maintenance organizations to provide health insurance coverage for clinical victim support services for victims of sexual violence and abuse.

The report is accessible through our website at:  
<http://files.hawaii.gov/auditor/Reports/2019/19-17.pdf>.

The summary is also accessible through our website at:  
<http://files.hawaii.gov/auditor/Overviews/2019/19-17AuditorSummary.pdf>.

If you or other Legislators would like a printed version of the report, please let me know.

Very truly yours,

Leslie H. Kondo  
State Auditor

LHK:emo

Attachments

ec/attach: Senators  
Representatives  
Carol Taniguchi, Senate Chief Clerk  
Brian Takeshita, House Chief Clerk

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# Auditor's Summary

## Study of Proposed Mandatory Health Insurance for Clinical Victim Support Services for Victims of Sexual Violence and Abuse

Report No. 19-17



### Should Support Services Be Mandatory?

Three largest insurers claim to already provide coverage, but lack of relevant data on claims and reimbursement hindered assessment

**HOUSE BILL NO. 484**, introduced during the 2019 legislative session, would require health insurers to provide clinical victim support services coverage to victims of sexual violence and abuse. The services are defined in the bill as follows:

- Coordinating with other health care providers;
- Assisting victims of sexual violence in obtaining appropriate government entitlements, access, insurance coverage, and other appropriate programs and services offered by government agencies and community organizations; and
- Coordinating with schools, employers, and other individuals and entities concerning a victim of sexual violence.

Survey data collected by the Centers for Disease Control (CDC) from 2010 through 2012 found more than 33 percent of women in Hawai'i experienced some form of contact sexual violence during their lifetime, and nearly 15 percent had experienced rape or attempted rape. Because sexual violence can



According to the CDC, “sexual violence” is defined as a sexual act that is committed or attempted by another person without freely given consent of the victim or against someone who is unable to consent or refuse.

lead to injuries, post-traumatic stress disorder, reproductive health issues, and other mental health and functional impairments, the proposed legislation would make coverage of services defined in the bill mandatory, such as interventions by licensed mental health professionals and coordination with non-medical providers. For Report No. 19-17, *Study of Proposed Mandatory Health Insurance for Clinical Victim Support Services for Victims of Sexual Violence and Abuse*, we surveyed commercial health plan providers that collectively insure about 90 percent of the state population. The three largest insurers, whose members account for about 73 percent of state residents, responded that the services described in House Bill No. 484 are already covered. Changes in policy designed to facilitate reimbursement for these services are a relatively recent development, however. This, coupled with a lack of relevant data, presented challenges to assessment.

## Social and Financial Impacts of House Bill No. 484

State law requires the Auditor to conduct an impact assessment before the Legislature can consider any measure mandating health insurance coverage for a specific health service, disease, or provider. Senate Concurrent Resolution No. 171, Senate Draft 1, asked the Auditor to assess the social and financial effects of requiring health insurers to include clinical support services for victims of sexual violence and abuse coverage under their individual and group policies. We were unable to determine the number of sexual violence victims who received any clinical support services specified in House Bill No. 484; more generally, however, three of the four 24/7 statewide sexual violence service providers reported serving a total of 1,579 victims in 2017 and 1,614 in 2018. A new policy implemented by the State's largest insurer in January 2019 identified a medical code that licensed mental health providers can use to bill for support services provided to victims of sexual assault, and the second largest insurer plans to do the same. The medical code will make it easier to determine how many victims of sexual violence and abuse obtain support services.

In terms of financial impact, most insurers surveyed said mandated coverage would likely increase the cost of services, but none provided an estimate. The State's Insurance Commissioner testified the proposed coverage mandate could be construed as an additional benefit under the State's essential health benefits, which would obligate the State to defray the cost.

## Recommendation

We were unable to determine how many sexual violence victims received, or are currently receiving, support services as described in House Bill No. 484. However, the State's three largest providers, who insure 73 percent of Hawai'i residents, stated those services are already covered. Once the State's two largest insurers both have medical codes in place, they will be able to track how often the services are being provided and billed for, and whether the claims are being approved by insurers. This data will be helpful to the Legislature if it considers mandating health insurance coverage for these support services in the future.

Survey data collected by the CDC from 2010 through 2012 found more than 33 percent of women in Hawai'i experienced some form of contact sexual violence during their lifetime, and nearly 15 percent had experienced rape or attempted rape.

# Study of Proposed Mandatory Health Insurance for Clinical Victim Support Services for Victims of Sexual Violence and Abuse

A Report to the Governor  
and the Legislature of  
the State of Hawai'i

**Report No. 19-17**  
December 2019



**OFFICE OF THE AUDITOR**  
STATE OF HAWAI'I



## OFFICE OF THE AUDITOR STATE OF HAWAII

### Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

### Our Mission

*To improve government through independent and objective analyses.*

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management and expenditure of public funds.

### Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

*For more information on the Office of the Auditor, visit our website:*  
<http://auditor.hawaii.gov>

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## Foreword

We assessed the social and financial impacts of mandating insurance coverage for clinical victim support services as proposed in House Bill No. 484, pursuant to Sections 23-51 and 23-52, Hawai‘i Revised Statutes (HRS). Section 23-51, HRS, requires passage of a concurrent resolution requesting an impact assessment by the Auditor before any legislative measure mandating health insurance coverage for a specific health service, disease, or provider can be considered. The 2019 Legislature requested this assessment through Senate Concurrent Resolution No. 171, S.D. 1.

We wish to express our appreciation for the cooperation and assistance extended to us by the State’s health plan providers and medical professionals, as well as other organizations and individuals we contacted during the course of our audit.

Leslie H. Kondo  
State Auditor



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PHOTO: ISTOCK.COM

## Study of Proposed Mandatory Health Insurance for Clinical Victim Support Services for Victims of Sexual Violence and Abuse

### Introduction

**A**CCORDING TO the Centers for Disease Control (CDC), sexual violence and intimate partner violence are serious public health problems that affect millions of people in the United States each year. The victims of these types of violence are often young, and for a majority of subgroups, women and racial and ethnic minorities are most affected. Recent data from the CDC indicates nearly 43.6 percent of women (roughly 52.2 million) in the United States experienced some form of contact sexual violence in their lifetime. It should be noted that the CDC also recognizes non-contact unwanted sexual experiences as a type of sexual violence. This includes verbal or behavioral sexual harassment or taking photos of a sexual nature of another person without permission. Survey data collected by the CDC from 2010 through 2012 found more than 33 percent of women in Hawai‘i experienced some form of contact sexual violence during their lifetime and nearly 15 percent of women in Hawai‘i had experienced rape or attempted rape. And, it is

**Survey data collected by the CDC collected from 2010 through 2012 found more than 33 percent of women in Hawai‘i experienced some form of contact sexual violence during their lifetime.**



## Before the Mandate

**UNDER SECTION 23-51**, Hawai'i Revised Statutes (HRS), before any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies can be considered, the Auditor must first assess the social and financial effects of the proposed mandated coverage. Section 23-52, HRS, lists the criteria the Auditor must address to the extent that information is available.

important to note that many incidents of sexual violence against women are not reported due to inadequate support systems or shame, as well as the fear or risk of retaliation, blame, disbelief, and social ostracism.

House Bill No. 484, introduced during the 2019 legislative session, would require all individual and group policies of accident and health or sickness insurance issued in Hawai'i, as well as individual or group hospital or medical service plan contracts, and nonprofit mutual benefit society, fraternal benefit society, and health maintenance organization health plan contracts to include coverage for clinical victim support services for victims of sexual violence and abuse.

House Bill No. 484 defines "clinical victim support services" as "professional intervention conducted by a licensed mental health provider to identify needs and assist in obtaining coordinated, appropriate services and resources for a victim of sexual violence and abuse to curtail or prevent the progression and worsening of mental disorders and associated functional impairments caused, in whole or in part, by the sexual violence and abuse."

Clinical victim support services include:

- Coordinating with other health care providers;
- Assisting victims of sexual violence in obtaining appropriate government entitlements, access, insurance coverage, and other appropriate programs and services offered by government agencies and community organizations; and
- Coordinating with schools, employers, and other individuals and entities concerning a victim of sexual violence.

Through Senate Concurrent Resolution No. 171, Senate Draft 1, the Legislature requested that the Auditor assess the social and financial effects of the mandated coverage as proposed in House Bill No. 484. The resolution also requested that the Auditor consult with mental health service providers who treat victims of sexual violence and abuse in every county, such as the Sex Abuse Treatment Center, which is a program of Kapi'olani Medical Center for Women and Children.

We found there may be significantly more victims under the CDC's definition of sexual violence, which not only includes rape and attempted rape, but also non-contact sexual violence such as sexual

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harassment.<sup>1</sup> However, we were unable to determine the number of sexual violence victims who had been or are currently receiving support services, as described in House Bill No. 484.

We additionally found the three largest insurers that provide commercial health plans in Hawai‘i represent that they currently cover support services as described in House Bill No. 484. The total membership for these three insurers accounts for about 73 percent of the state population.

## Objective of Study

Assess the social and financial effects of requiring health insurers, mutual benefit societies, fraternal benefit societies, and health maintenance organizations to provide insurance coverage for clinical victim support services for victims of sexual violence and abuse as a mental health outpatient services benefit.

## Scope and Methodology

We reviewed reports regarding sexual violence and sex offenses from the CDC, a joint effort from the Hawai‘i Department of the Attorney General and Sexual Violence Strategic Planning Group, and another partnership report from the Sex Abuse Treatment Center and the Hawai‘i Department of the Attorney General. Other sources for this report include the National Sexual Violence Resource Center, the U.S. National Institutes of Health’s National Library of Medicine, the World Health Organization, the American Psychiatric Association, the Centers for Medicare and Medicaid Services, and the Medicare Learning Network.

We interviewed members of statewide sexual violence service provider organizations, including the Sex Abuse Treatment Center, the Maui Child and Family Service Sexual Assault Support Services, and the Hawai‘i YWCA Sexual Assault Victim Empowerment program. We also interviewed the administrator of the Hawai‘i Employer-Union Health Benefits Trust Fund, which provides medical, prescription drug, chiropractic, dental, vision, and life insurance benefits to all State of Hawai‘i and county employees, retirees and their dependents.

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<sup>1</sup> “Sexual violence” is not defined in House Bill No. 484; however, the Sex Abuse Treatment Center, which drafted the language for the bill, follows the CDC’s definition for sexual violence. For the purposes of this report, we adopted that definition (see “Defining Sexual Violence” on page 4). We note that House Bill No. 484 likely needs a clear definition of the term so all affected parties can operate under a shared understanding as to what constitutes an act of sexual violence.

We surveyed Hawai‘i health care insurers whose membership accounted for about 90 percent of the total population of the State of Hawai‘i. Only one insurer elected not to participate in the survey because its benefits are provided under Medicare Advantage, which would not be affected by the proposed mandate. Other insurers, which also offer Medicare or Medicaid plans, participated in our survey. However, due to the nature of the plans they offer, their responses to some of our survey questions were limited as they may not apply to their particular operational models. We conducted this study from July 2019 to November 2019 in accordance with Sections 23-51 and 23-52, HRS.

## Defining Sexual Violence

In an effort to get a clearer understanding of the population of sexual violence victims in Hawai‘i, we obtained data on the total number of individuals who received services during 2017 and 2018 from three of the four agencies recognized as “24/7 statewide sexual violence service providers” by the Attorney General’s office.

### Exhibit 1 Individuals Serviced by 24/7 Statewide Sexual Violence Service Providers

Facility	Total Serviced 2017	Total Serviced 2018
Sex Abuse Treatment Center (O‘ahu)	754	774
Hawai‘i YWCA Sex Assault Empowerment	477	492
Child & Family Service Maui Sexual Assault Center	348*	348*
YWCA Sexual Assault Treatment Program Kaua‘i	Not Available	Not Available
<b>Total:</b>	<b>1,579</b>	<b>1,614</b>

\*Includes Moloka‘i

Estimating the population of sexual violence victims is complicated by the fact that the term is not specifically defined in House Bill No. 484. According to the Sex Abuse Treatment Center, which drafted the language for the bill, the omission was not intentional. The center’s public policy programs manager explained that working with victims of sexual violence is a part of the center’s day-to-day work, so the term is clearly understood and needs no explanation in the social services

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world. The center’s manager did clarify that, for an action to be considered a form of sexual violence, there must be a sexual component involved. However, it is not clear what defines a “sexual component.” The manager further explained that the Sex Abuse Treatment Center follows the definition developed and used by the CDC.

According to the CDC, “sexual violence” is defined as a sexual act that is committed or attempted by another person without freely given consent of the victim or against someone who is unable to consent or refuse. The CDC’s definition includes forced or alcohol/drug facilitated penetration of a victim; forced or alcohol/drug facilitated incidents in which the victim was made to penetrate a perpetrator or someone else; non-physically pressured unwanted penetration; intentional sexual touching; and non-contact acts of a sexual nature. Sexual violence can also occur when a perpetrator forces or coerces a victim to engage in sexual acts with a third party. The CDC divides sexual violence into various types which not only include contact sexual violence, but also non-contact unwanted sexual experiences. These include:

- Unwanted exposure to sexual situations such as pornography or exhibitionism;
- Verbal or behavioral sexual harassment such as making sexual comments, spreading sexual rumors, sending unwanted sexually explicit photos, or creating a sexually hostile climate;
- Threats of sexual violence to accomplish some other end such as threatening to rape someone if he or she does not give the perpetrator money; and
- Unwanted filming or taking or disseminating photos of a sexual nature of another person.

We did find a definition of sexual violence in the HRS under the chapter on Employment Practices; however, this definition does not align with the Sex Abuse Treatment Center’s understanding and the CDC’s definition of sexual violence. For example, Section 378-1, HRS, defines “domestic or sexual violence” as domestic abuse, sexual assault, or stalking. In addition, the CDC’s definition does not yet include stalking as a form of sexual violence. Domestic abuse as defined in Chapter 586, HRS, may include sexual assault, but only when the victim is a minor or other member of a household and the perpetrator is an adult family or other household member.

The 2017 Uniform Crime Report for Hawai‘i defined *rape* as sexual penetration without the consent of the victim. Under this definition, there were 567 reported rapes in Hawai‘i in 2017. However, under

the CDC definition, the population of sexual violence victims would likely be significantly greater than calculations based on the number of reported rapes, since non-contact sexual experiences must also be accounted for. Therefore, should the bill proceed, we recommend the Legislature consider defining the term “sexual violence and abuse” to clarify the injuries for which health insurance coverage for clinical victim support services is mandated.

## Possible Health Effects of Sexual Violence

According to the CDC, sexual violence has been linked to a multitude of negative health consequences, resulting in a significant health burden with substantial costs to families and communities. The World Health Organization has also noted that health effects can range from acute trauma to a wide range of adverse physical and psychological conditions such as injury, post-traumatic stress disorder, and reproductive health issues.

### Exhibit 2 Possible Health Consequences for Female Sexual Violence Victims

Mental Health	Reproductive Health	Fatal Outcomes
<ul style="list-style-type: none"><li>• Depression</li><li>• Post-traumatic stress disorder</li><li>• Anxiety</li><li>• Sleep difficulties</li><li>• Suicidal behavior</li><li>• Panic disorder</li></ul>	<ul style="list-style-type: none"><li>• Unintended pregnancy</li><li>• Unsafe abortion</li><li>• Sexual dysfunction</li><li>• Sexually transmitted infections</li></ul>	<ul style="list-style-type: none"><li>• Suicide</li><li>• Pregnancy complications</li><li>• Unsafe abortion</li><li>• AIDS</li></ul>

Source: World Health Organization

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## Support Services as Mental Health Treatment Services

House Bill No. 484 states the clinical victim support services are intended to “curtail or prevent the progression of and worsening of mental disorders...caused, in whole or in part, by the sexual violence and abuse.” The support services as defined include assistance relating to non-medical providers, such as “[a]ssisting ... in obtaining appropriate government entitlements, access, insurance coverage” and “[c]oordinating with schools, employers, and other individuals and entities.”

The measure proposes to amend parts of Chapter 431M, HRS, which covers mental health and alcohol and substance use disorder treatment insurance benefits. The changes include Section 431M-4, HRS, which establishes that covered benefits for mental health services are limited to coverage for “diagnosis and treatment of mental disorders.” Further, the law also requires that all mental health services must be provided under an individualized treatment plan and must be reasonably expected to improve a patient’s condition. The bill proposes clinical victim support services be added as a covered benefit alongside mental health outpatient services. However, we found opinion is mixed among insurers and the Sex Abuse Treatment Center as to whether these support services are considered mental health treatment services.

Insurers were also divided as to whether they consider these support services to be “medically necessary” – with two insurers believing they are and two which said they are not. The Sex Abuse Treatment Center’s position is that case management is a normal feature of patient care and is sometimes medically necessary for the treatment of mental health conditions and, therefore, should be covered as a mental health service. A Sex Abuse Treatment Center psychologist maintained that support services are medically necessary because there is the risk a patient could commit suicide or engage in self-harm. However, the center also acknowledged it could not cite a study or provide any documents that support the premise that these support services improve a patient’s condition. Therefore, should the Legislature decide that the support services described in House Bill No. 484 are *not* mental health treatment services, it may wish to consider amending Section 431M-4, HRS, to make clear these support services will be covered as a separate benefits category.

Further, Section 431M-2, HRS, requires all individual and group hospital or medical service plan contracts and health maintenance organization health plan contracts to include coverage for alcohol use disorder, substance abuse disorder, and mental health treatment services. The law also does not allow these contracts to have financial requirements or treatment limitations on mental health benefits that are



## Statewide Sexual Violence Services Process

**THROUGH INTERVIEWS** with Sex Abuse Treatment Center staff and reviews of documents, we were able to gain an understanding of the general process used by agencies that provide 24/7 on-call services for victims of sexual violence. According to a social worker at the Sex Abuse Treatment Center, support services – which the center views as a subset of case management – may also be provided at various points in the process.



Sexual assault workers are available to respond to incoming phone requests for services and/or information using a 24-hour hotline. During this phone call, the sexual assault worker will help the caller explore the problem or concern, identify what is needed, and arrive at a plan of action. The center's services may also be requested by hospitals, other agencies such as Child Welfare Services, or the military.



At the Sex Abuse Treatment Center, this intake process is handled by workers at its crisis program, who also determine whether short-term or long-term counseling is needed. Once a victim is medically stable, a forensic examination or "rape kit" may be administered to collect forensic evidence.



If ongoing psychotherapy is needed, a victim is referred to a counseling program of the agency or to an outside provider if more appropriate. At the Sex Abuse Treatment Center, these victims are referred by the crisis program to its clinical program which deals with long-term care. According to a psychologist at the Sex Abuse Treatment Center, long-term therapy could last years.

Outreach and case management services – such as obtaining information from other professionals involved in the care of the victim to discuss and coordinate the victim's care – may be provided at any time during this process depending on the needs of the victim.

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more restrictive than those imposed on medical and surgical benefits, in accordance with the federal Mental Health Parity and Addiction Equity Act. If clinical victim support services are considered to be “mental health treatment services,” they could be subject to the act.

If lawmakers agree that the support services as described in House Bill No. 484 are considered mental health treatment services and that those services are required to be covered under existing state law (i.e., Section 431M-2, HRS), lawmakers should consider whether the proposed mandate under House Bill No. 484 is necessary.

## Current Insurance Coverage

We polled insurers to determine if services are currently being provided and, if so, covered. Only one of seven insurers surveyed provided any data to show it had covered claims for these support services in 2018, reporting 106 unique members had received support services under a diagnosis associated with sexual assault. This total represented about .01 percent of its total membership. A second insurer surveyed commented these support services are encompassed within its case management services through its existing health plan benefits and contractual state requirements, but it did not provide any data regarding the number of members who actually received support services in 2018. A majority of insurers surveyed claim support services are already generally available through their current health plans.

In an effort to further assess the utilization rate of these support services, we worked with the executive directors of the Hawai‘i Medical Association and the Hawai‘i Psychological Association to prepare and distribute a separate survey to their members as well as members of the Hawai‘i Psychiatric Association. However, from a potential pool of 1,280 health care professionals, only seven members responded to our survey. Due to the lack of responses, we were not able to assess whether these health care professionals have been providing these support services and whether they have been experiencing any difficulties in being reimbursed for these services by insurers.

## Mandated Cost Responsibility Under Affordable Care Act

In testimony before the House Committee on Health in January 2019, the Insurance Commissioner for the State of Hawai‘i Department of Commerce and Consumer Affairs stated the proposed coverage mandate may be viewed as an additional benefit to the State’s essential health benefits and may obligate the State to defray the cost. Under the



### Medical Codes

**THE CURRENT** Procedure Terminology (CPT) system was developed by the American Medical Association to help track healthcare utilization, gather statistical healthcare information about populations, and identify services for payment. The CPT system is used as a standardized coding system for medical services and procedures to help ensure data is captured accurately and that health claims are processed properly. The CPT code identifies the *category of service* such as psychology services. When a claim is submitted, it includes a CPT code and an International Classification of Diseases and Related Health Problems (ICD) code. The ICD is the *diagnosis* code, identifying the illness or condition, which is also used for billing purposes.

Patient Protection and Affordable Care Act of 2010 (ACA) and federal regulations, a state may require a qualified health plan to offer benefits in addition to essential health benefits, but that state is ultimately responsible for defraying the cost of those added benefits.<sup>2</sup>

Five of the seven insurers surveyed said the mandate would be viewed as an additional benefit to essential health benefits and that the State would be obligated to defray the costs. It should be noted that HMSA, whose preferred provider plan serves as Hawai'i's essential health benefits benchmark plan, was among the insurers who believe the State would be responsible for the costs to cover the mandated support services. Federal regulations place the onus on the State to identify which mandated benefits are in addition to the essential health benefits and place the responsibility on the insurers to calculate the cost for each additional state-mandated benefit.<sup>3</sup> Therefore, should the proposed mandate be implemented, the issue of whether the State is responsible for paying for part, all, or none of the cost for clinical victim support services will likely need to be resolved between the State and insurers providing coverage to Hawai'i residents on the State's behalf.

## **Social and Financial Impact of House Bill No. 484**

Section 23-51, HRS, requires an impact assessment by the Auditor before any legislative measure mandating health insurance coverage for a specific health service, disease, or provider can be considered. Based on the criteria in the statute, we examined the potential social and financial effects of mandating health insurance coverage for clinical victim support services to curtail or prevent the progression and worsening of mental disorders and associated functional impairments caused, in whole or in part, by sexual violence and abuse.

### **Social Impact**

#### **The extent to which the treatment or service is generally utilized by a significant portion of the population (Section 23-52(1)(A), HRS):**

Based on survey responses from insurers, although there is an indication these support services are not generally utilized by the public, we found there is insufficient data to make any definitive conclusion. It should be noted that the State's largest insurer acknowledged that, prior to 2019, case management services were offered to its members through a third-party vendor or an in-house case manager. It was not until January 2019

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<sup>2</sup> 45 C.F.R. § 155.170(a)-(b) (2017).

<sup>3</sup> 45 C.F.R. §155.70(a)(2)-(3), (c) (2017).

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that the insurer established a policy which identified a medical code that licensed mental health providers can use to bill for these support services. The insurer noted the medical billing code was just established in 2018, which might explain its low claim totals for that year. Other insurers surveyed were not able to provide any data to indicate utilization rate. A lack of responses from our survey of care providers also factored into our assessment.

Based on data provided by three of the four statewide sexual violence service providers, an average of about 1,600 individuals were serviced by those agencies in 2017 and 2018. However, this data does not identify how many of these individuals received some type of support services as described in House Bill No. 484.

For example, the Sex Abuse Treatment Center on O‘ahu reported, of the 774 individuals it serviced in 2018, 183 had received case management services. However, the center categorizes these support services as a subset of case management services and does not track them separately. Therefore, it was not able to identify how many people actually received these specific support services in 2018.

The Hawai‘i YWCA agency reported, in 2017 and 2018, very few to none of their clients received support services as described in the bill. The Child and Family Service Sexual Assault Center on Maui estimated that while roughly 15 percent of its clients received health care provider coordination services, only five percent or less received other types of support services as described in the bill. Without additional insurance claims data or provider data, there is no clear indication whether these support services are generally utilized by the public.

**The extent to which such insurance coverage is already generally available (Section 23-52(1)(B), HRS):**

As previously noted, the State’s largest insurer passed a Sexual Abuse Case Management policy in January 2019 that allows providers to bill and be reimbursed for care management services provided to victims of sexual assault. The State’s second largest insurer, meanwhile, said it already covers these support services as long as they are delivered by a member of its provider network or if it refers these services to an out-of-network provider. The fifth-largest insurer also said it currently covers these support services and noted that it had not been approached about any reimbursement issues by the Sex Abuse Treatment Center prior to meeting with our office for this project.

Overall, five of seven insurers surveyed responded that coverage for these support services is generally available through their current health plans. Although one insurer surveyed initially said these services

are generally available, it later clarified its response by noting that a majority of the support services described in House Bill No. 484 are not covered because it does not consider them to be medically necessary and because providing these services raise medical confidentiality concerns under the Health Insurance Portability and Accountability Act (HIPAA).

The insurers that responded to our survey have memberships that collectively make up more than 70 percent of the state population. Therefore, while survey responses indicate these services may be covered for most people in Hawai'i, an absence of claims data hindered our ability to assess how often these services are being provided and whether they are being reimbursed on a consistent basis.

**If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment (Section 23-52(1)(C), HRS):**

Four of the seven insurers surveyed said a lack of coverage would not result in people being unable to obtain necessary health treatment. However, one insurer pointed out that, in terms of assessing necessary mental health services, there may be challenges for a victim navigating the health care system, including stigma and other issues that prevent, limit, or delay accessing mental health benefits through their insurance plans.

Some literature suggests that some victims of trauma may not be capable of properly identifying necessary health treatments – and therefore, may not be able to obtain necessary treatment without help of clinical case management services. A psychologist at the Sex Abuse Treatment Center said some victims have multiple mental disorders such as schizophrenia, depression, and anxiety and may be willing, but are no longer capable of navigating government websites on their own to obtain key information.

Therefore, while a majority of insurers surveyed believe a lack of coverage will not result in people being unable to obtain necessary health care treatment, we note that, according to some, victims of trauma arguably may not have the ability to navigate the health care system on their own and identify needed treatment. This raises the possibility that an undetermined number of victims of sexual violence may encounter similar issues without help.

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**If coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment (Section 23-52(1)(D), HRS):**

Three of the seven insurers surveyed said a lack of coverage would not result in unreasonable financial hardship on people in need of treatment, but the remaining four insurers either did not have sufficient information to make an analysis or simply did not respond to the question. A policy established by the largest insurer in Hawai‘i that enables health care providers to bill for support services will reimburse providers based on a minimum threshold of 20 minutes each month on a per-patient basis. The medical code for the billing of support services will also be used by at least two other insurers. However, the fee rate may vary for each provider depending on the fee schedule he or she operates under with an individual insurer.

Therefore, while survey responses indicate an absence of coverage for support services would not place an unreasonable financial hardship on people in need of treatment, a lack of utilization data coupled with unknown fee rates make it unclear what financial impact these individuals could potentially face.

**The level of public demand for the treatment or service (Section 23-52(1)(E), HRS):**

Only one insurer was able to provide 2018 claims data for support services under a diagnosis for sexual assault and found that only 106 unique members received support services under this diagnosis. In addition, the Sex Abuse Treatment Center was not able to specify the number of clients who received these support services. As previously noted, there is no clear utilization data regarding these support services from the insurers or the providers, which hindered our assessment. Therefore, we were not able to assess the level of public demand for these services to any reasonable degree of certainty.

**The level of demand for individual or group insurance coverage for the treatment or service (Section 23-52(1)(F), HRS):**

Four of the seven insurers surveyed said there has been no demand for individual or group insurance coverage for these support services. One of the insurers added that the level of demand “is not easily identified.” The remaining insurers surveyed said the question does not apply to their organizations because they do not primarily deal with group businesses insurance or individual health plans.

The Sex Abuse Treatment Center said it has been pushing for mandated coverage of these support services since 2017. Since then, the State’s

largest health insurer has approved a policy that identifies a medical code which providers can use to bill for these support services. As of October 2019, we were informed the second-largest insurer in Hawai‘i was also working to amend its provider contracts – including its agreement with the Sex Abuse Treatment Center – that will accommodate the same medical code along with a new fee schedule. This will presumably provide a more accessible means of seeking reimbursement for these services. Based on insurer survey responses and recent developments involving the two largest insurers in Hawai‘i, we found it reasonable to conclude that there does not appear to be significant demand placed on insurers for individual or group coverage of these support services.

**The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts (Section 23-52(1)(G), HRS):**

Five of the seven insurers surveyed reported they had not received any interest to include coverage of these support services from collective bargaining organizations. The remaining two insurers either said the survey question was not applicable to its operations or did not provide a response. Further, the Hawai‘i Employer-Union Health Benefits Trust Fund said it had verified that the health plans for state and county employees, retirees and their dependents include coverage for these support services. Therefore, we found it reasonable to conclude there does not appear to be any significant demand placed on insurers for collectively bargained health plans to include these support services.

**The impact of providing coverage for the treatment or service (such as morbidity, mortality, quality of care, change in practice patterns, provider competition, or related items) (Section 23-52(1)(H), HRS):**

There was no consensus on this matter from insurers we surveyed. One insurer responded that the mandate would improve the overall health and well-being of individuals, but it did not provide any data or analysis to support its position. Five insurers said they did not know, were not able to provide an assessment, deferred to a third-party to conduct an assessment, or did not provide a response.

Further, we found literature that suggests identifying safety and stabilization is the first stage of trauma treatment. The inclusion of case management aligns with this framework because it has been long recognized that people cannot take care of higher-level needs until basic physiological and safety needs are met. The first stage of trauma-informed services may include helping a client access safer housing, sign up for financial entitlements, or locate a food pantry. Clinical case

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management recognizes that informal resources of both the physical and social environment are often essential to survival and growth.<sup>4</sup>

When asked whether these support services are a medical necessity, a psychologist at the Sex Abuse Treatment Center believed it is a necessity, citing the risk of self-harm or suicide if these services are not provided. However, the psychologist admittedly could not identify any study or research that supports the position that the condition of victims of sexual violence who suffer from mental disorders and receive support services showed greater improvement as compared to those who do not receive these services.

We found that, although at least two insurers believe that mandated coverage of these support services might have an effect on practice patterns or mortality rates, the absence of clear data hinders our ability to assess the level of impact in these areas with any certainty.

**The impact of any other indirect costs upon the costs and benefits of coverage (Section 23-52(1)(I), HRS):**

The responses of insurers surveyed did not provide any consensus regarding this question. Three insurers said the impact was unknown or could not provide an assessment. One insurer explained the support services described in House Bill No. 484 “go beyond typical medical matters insured by health insurers.” The next highest response was “no impact,” which was submitted by two insurers – both of which said it was because they currently provide coverage for these support services. Therefore, due to a lack of clear consensus among the survey respondents, it is unknown what, if any, indirect cost impact a mandate might have on the other insurers.

## **Financial Impact**

**The extent to which insurance coverage of the kind proposed would increase or decrease the cost of the treatment or service (Section 23-52(2)(A), HRS):**

A majority of insurers surveyed said the mandate would likely increase the cost of services, but none provided any cost estimate. The reasons for their positions varied:

- One insurer said, if there are no medical codes specific for these support services, administrative costs would increase.

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<sup>4</sup> Joel Kanter, M.S.W., *Clinical Case Management: Definition, Principles, Components*, Hospital and Community Psychiatry, vol. 40, no. 4, April 1989.



- Another insurer said, if a mandate results in increased demand for these services, the additional patient load on providers may lead to higher costs in the short-term.
- A third insurer said the mandate would increase the role of these support services, which in turn, would result in an increase in cost for these services.

However, due to an absence of utilization data and based on our review of insurer survey responses, although some insurers raised the possibility a mandate could increase costs for the support services, we could not reach a definitive conclusion because none of the insurers was able to provide a cost estimate.

**The extent to which the proposed coverage might increase the use or the treatment or service (Section 23-52(2)(B), HRS):**

Two insurers surveyed responded that a mandate would likely result in a slight increase in the use of support services. One insurer reasoned that, because the support services go beyond what is traditionally viewed as support services or coordinated care, there would be a slight increase in usage. However, three other insurers said they believed there would be no change. Another insurer said, because most counseling services are provided for unspecified reasons, it could not assess what the impact on usage might be.

Due to an absence of consensus, we could not provide a conclusion with any certainty. We also point out that a lack of clear utilization data from the insurers or care providers would hinder future assessments of whether mandated coverage has impacted the usage of these support services.

**The extent to which the mandated treatment or service might serve as an alternative for more expensive treatment or service (Section 23-52(2)(C), HRS):**

Five of the seven insurers surveyed said they could not provide a definitive response because they were either not aware of comparable support services, lacked sufficient data, or just did not know how the mandated services would reduce costs.

As previously noted, a new policy established by one insurer identifies a CPT medical code that providers may use to bill for these support services. That CPT code limits reimbursement to 20 minutes of services per month for each. The fee rate may vary depending on the fee schedule agreement between the insurer and the provider. However, the insurer deemed the fee schedule as proprietary information. Therefore,

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we found the lack of pertinent data and time constraints hindered our ability to make this assessment.

**The extent to which insurance coverage of the health care service or provider can be reasonably expected to increase or decrease the insurance premium and administrative expenses of policyholders (Section 23-52(2)(D), HRS):**

Opinion was divided among insurers surveyed as to what extent premiums and expenses would be impacted. Two insurers said a mandate would not result in any change to premiums while two other insurers said there would be an increase although they differed on its severity and did not provide any specific estimates. Three insurers – primarily those which administer federal Medicaid or Medicare plans – said the question does not apply to them because a mandate would not impact premiums.

However, five of the seven insurers surveyed also said they believed the State would be responsible for defraying the cost for these mandated services under a provision of the Affordable Care Act. Under the ACA and federal regulations, a state may require a qualified health plan to offer benefits in addition to the essential health benefits, but the state is ultimately responsible for defraying the cost of those added benefits.<sup>5</sup> Federal regulations placed the onus on the states to identify which mandated benefits are in addition to the essential health benefits and place the responsibility on the insurers to calculate the cost for each additional state-mandated benefit.<sup>6</sup> Therefore, it is possible a mandate would impact the State more so than policyholders as far as covering the cost for these support services.

**The impact of the coverage on the total cost of health care (Section 23-52(2)(E), HRS):**

Five of the seven insurers surveyed said they were not able to assess the impact of the coverage on the total cost of health care in Hawai‘i. One insurer explained that it was not able to estimate costs associated with victims of sexual violence as a separate and distinct group. Another insurer argued there were too many variables and unknowns to make a valid estimate while two other insurers pointed to a lack of information regarding current coverage levels or utilization and demand for these support services. The absence of data to indicate the frequency these support services are being delivered, as well as the range of fee rates being charged for these services, hinders our ability to assess what the cost impact the mandate might have on health care in Hawai‘i.

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<sup>5</sup> 45 C.F.R. §155.170(a)-(b) (2017).]

<sup>6</sup> 45 C.F.R. §155.170(a)(2)-(3), (c) (2017).

## Conclusion

For various reasons, the number of sexual violence victims who have been or are currently receiving support services as described in House Bill No. 484 is unclear. Only one of seven insurers we surveyed was able to provide any claims data to indicate how often support services have been provided in diagnosed cases of sexual assault. And the total number of claims filed in 2018 represented roughly .01 percent of its total membership. In addition, in an effort to assess whether mental health care providers have been providing support services or have been experiencing problems in being reimbursed for these services, our office coordinated with the Hawai'i Medical Association and the Hawai'i Psychological Association to make available a survey to more than 1,200 health care providers in the medical, psychiatric, and psychology fields. However, we only received seven responses. Meanwhile, the Sex Abuse Treatment Center noted that it serviced more than 770 people in 2018, but it could not identify how many of them received support services as described in House Bill No. 484. According to the sexual violence services agencies on Maui and Hawai'i, they rarely, if ever, have had to provide these types of support services to their clients.

In any case, the three largest insurers that provide commercial health plans in Hawai'i responded that they currently cover support services as described in House Bill No. 484. We also found the largest insurer recently approved the use of a newly established medical code that may be used specifically for support services to victims of sexual assault. The second-largest insurer also plans to do the same. Once in place, the code will provide a means to track how often these services are being provided and billed for; and whether these claims are being approved by the insurers. Such data will be helpful to the Legislature if it considers mandating health insurance coverage for these support services in the future.