

STATE OF HAWAII
DEPARTMENT OF HEALTH
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LATE

**Testimony in OPPOSITION to H.B. 0582
RELATING TO HEALTH.**

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE ON HEALTH
REPRESENTATIVE JOY A. SAN BUENAVENTURA, CHAIR
HOUSE COMMITTEE ON HUMAN SERVICES & HOMELESSNESS

Hearing Date: Tuesday, January 29, 2019

Room Number: 329

1 **Fiscal Implications:** An unspecified amount is appropriated from the general fund to implement
2 and maintain a forum.

3 **Department Testimony:** This bill includes a variety of issues mostly related to non-institutional
4 or residential care homes. It adds a new term for a type of care home, clarifies current statutory
5 language, addresses a department online forum, attempts to establish licensing fees and
6 minimum compensation for caregivers in statute, and attempts to establish interest on late
7 payments. Allow us to address each item.

8 This bill inserts the term "community-based care homes" in several places. However, the
9 term is not defined so it is unclear whether this is a new type of care home or simply another
10 generic term for all community-based residential-type care homes. This term should either be
11 defined or deleted as unnecessary since the various types of impacted facilities and homes are
12 already specified in statute.

1 The bill inserts the term "inspection" to clarify that it is the inspection reports that shall
2 be posted online by the Department. The Department supports inserting this term for
3 clarification purposes.

4 The bill inserts language that permits but does not require the Department to maintain an
5 online forum for private state-licensed care homes to post vacancy information to facilitate
6 referrals between private state-licensed professionals, health care facilities, and other
7 organizations or persons. The Department believes it would be better for the private sector to
8 undertake this task rather than to use state taxpayer money so that private organizations and
9 entrepreneurs could communicate, make and receive referrals, and receive income. The bill also
10 requires the Department to convene a working group to discuss and provide feedback on the
11 implementation and maintenance of a forum on a state website, and to submit a report to the
12 2020 legislature. If the private sector wishes to create a forum, the Department is willing to
13 participant in an advisory capacity, so convening another working group would not be needed.
14 Lastly relating to an online forum, the bill appropriates money for the next two (2) fiscal years to
15 implement and maintain the forum. This appropriation is not necessary if the private sector
16 undertakes this effort.

17 The bill would establish facility licensing fees in statute. However, licensing fees are
18 now contained in administrative rules Chapter 103 and were effective on March 17, 2018. The
19 Department is now in the process of implementing a computer-based invoicing system as part of
20 a broader management information system (MIS) in order to invoice and collect fees. This
21 system will "go live" by February 2019. As a result, establishing licensing fees in statute is
22 unnecessary.

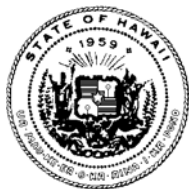
1 The bill requires the Department to ensure that employees of licensed care homes receive
2 unspecified annual compensation amounts. Fair compensation for employment is important but
3 it is not a Department function. This is a private matter between employers and employees and
4 market forces should play a role. In addition, compensation for many residential care home
5 services, such as for developmental disability adult foster homes, community care foster family
6 homes, adult day care, or other homes are paid by the state Department of Human Services
7 (DHS) Med-QUEST Division using Medicaid 1915(c) waiver moneys from the U.S. Centers for
8 Medicare and Medicaid Services (CMS). As a result, payment rates to providers must be
9 approved by CMS. DOH does not make these payments directly to residential care providers..
10 Therefore, the Department opposes this requirement.

11 Finally, the bill requires the Department to pay interest on late payments made to
12 facilities and case managers. However, where there are service contracts between the
13 Department and providers, the terms of the contracts should prevail, including terms on interest
14 on late payments. In addition, as noted for compensation, DOH does not make payments to
15 Medicaid waiver homes and does not pay for services at other private care homes. The
16 Department opposes this requirement.

17 Thank you for the opportunity to provide testimony on this measure.

18 **Offered Amendments:** None.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

January 28, 2019

TO: The Honorable Representative John M. Mizuno, Chair
House Committee on Health

The Honorable Representative Joy A. San Buenaventura, Chair
House Committee on Human Services and Homelessness

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 582 – RELATING TO HEALTH**

Hearing: Tuesday, January 29, 2018, 9:15 a.m.
Conference Room 329

DEPARTMENT'S POSITION: The Department of Human Services (DHS) offers comments on Section 11 of the bill.

PURPOSE: The purpose of this bill is to create and establish various policies to adequately address the various issues concerning the elderly and disabled and the community healthcare industry while ensuring consumer protection for Hawaii's elderly and disabled.

DHS defers to the Department of Health (DOH) regarding the licensing, reporting and fee collection sections of the bill. DHS will comment on the fair compensation for community-based long term care providers in Part V, Section 11.

The bill directs the Department of Health (DOH) to fairly compensate caregivers and case managers. We would like to clarify that DHS Med-QUEST Division (MQD) contracts with health plans that contract and pay for home and community based services provided by adult residential homes, community care foster homes, expanded adult residential care homes, and adult day care centers. Also, as the Medicaid agency, MQD oversees the Medicaid services

provided by Developmental Disability Division (DDD) of DOH. In this role, the rates paid by DDD are under the purview of DHS as the state Medicaid agency. It is usual that rates are consistent for those provider types that serve both the intellectual and developmental disabilities (I/DD) Medicaid population and the rest of the Medicaid population receiving home and community-based services.

DHS would need to seek approval from the federal Medicaid agency, the Centers for Medicare and Medicaid Services (CMS) for the changes in the rates to be paid as outlined in Part V/Section 11 of the bill. CMS could disapprove the rates, which would then put state law in conflict with federal Medicaid approvals.

Finally, if the rates to be paid are to be higher than current rates, a State General Fund (A) appropriation would be needed to be able to pay the higher rates for DDD and to DHS for increased payments to the home and community-based providers serving the Medicaid population.

Thank you for the opportunity to testify on this bill.

HB-582

Submitted on: 1/27/2019 7:26:02 PM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruth Raza	Adult Residential Care Home Operators Association- Big Island	Support	No

Comments:

HB-582

Submitted on: 1/26/2019 3:28:59 PM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Corazon E. Cariaga	Big Island Adult foster home operators	Support	No

Comments:

Thank you for giving me the opportunity to send my testimony

HB-582

Submitted on: 1/27/2019 10:50:55 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Star	Community Home Care Ass of Hawaii	Support	No

Comments:

HB-582

Submitted on: 1/27/2019 9:12:48 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
evelyn isabelo	BIAFHO	Support	No

Comments:

HB-582

Submitted on: 1/27/2019 10:55:28 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Josefina Daga	CHCAOH	Support	No

Comments:

HB-582

Submitted on: 1/27/2019 7:55:22 PM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
MARFE RETUNDO	CCFFH	Support	No

Comments:

HB-582

Submitted on: 1/28/2019 9:08:08 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

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

Comments:

LATE

HB-582

Submitted on: 1/28/2019 12:08:51 PM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cheryll Apuya	United Group of Home Operators	Support	No

Comments:

To: Representative John Mizuno

DOH Committee Chair and Committee Members

Date: January 28, 2019

House Conference, Rm 329

Re: HB 582, Relating to Caregiver Omnibus Bill

Aloha Chair John Mizuno and Committee Members:

My name is Cheryll Apuya under the organization of UGHO. On behalf of Mrs. Esther Pascual, president of United Group of Home Operators (UGHO), we the officers and members of the said organization are in support of the intent of HB582.

Thank you for your attention.

Cheryll Apuya

LATE

HB-582

Submitted on: 1/28/2019 8:16:40 PM
Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rosemarie S. Sebastian	United Group of Home Operators	Support	No

Comments:

TO: COMMITTEE ON HEALTH AND HUMAN SERVICES

Chairs: Representative Mizuno

Representative San

Vice Chair: Representative Bert Kobayashi

Representative Nakamura

Members of the Committees

LATE

FROM: Agnes Reyes

President, Case Management Professionals, Inc.

94-235 Hanawai Circle, Suite 1B, Waipahu,, HI 96797

Tel: (808) 689-1937 ext 112

Fax: (808) 689-1933

Email: agnes@cmp-hi.com

DATE: January 29, 2019

RE: HB 582

TESTIMONY: **SUPPORT WITH AMENDMENTS**

My name is Agnes Reyes, a registered nurse for 35 years and the President of Case Management Professionals, Inc, a pioneer case management agency since 1999 serving the islands of Oahu, Kauai, Big Island, Maui and Molokai.

Case Management Professionals, Inc. supports House Bill 582 with amendments below.

As Hawaii's population is exponentially aging, the State of Hawaii acknowledges the arrival of the "Silver Tsunami". We therefore rely on the Legislature's wisdom to assess the various modalities of providing care that ensures the protection of the health, safety and welfare of our kupuna.

Section 4- I support misdemeanor charges for intentional operations of homes providing care to an individual needing the care of an adult residential care home, community care foster family home, expanded care home and hospice facility. I fully support the use of only licensed and certified homes for our kupuna who need care and the only other alternative is to live in the domain of their own home with family. Any other home managed by an individual or entity should be subject to licensing rules and regulation. There has been an influx of unlicensed facilities trying to bypass licensing and regulatory requirements. The State should come up with a clear definition of what constitute "home" or "residence" with regards to care. Unlicensed home advocates are continuously trying to confuse the public and find creative ways to maneuver the system. Moreover, boarding homes should also be scrutinized as some of them are unable recognize the need that the boarder is unsafe to live on their own and care for themselves, nor are the boarding home able to determine when they should release individuals to a setting of care. These individuals poses a risk to their health, welfare and safety and should be reported by their landlord to their family or to the Adult Protective Services instead of allowing them to continue to live on their own unsafely.

Section 9 - I disagree with the relicensing charges for case management agencies and the community care foster family homes as well as other residential care homes. Whereas the community-based foster care industry provides a valuable service to the care of the elderly in the State of Hawaii, it also saves the state millions of dollars as an alternative to institutional nursing care which cost at least 3x more. The case management agencies have not had a raise for almost 20 years since the inception of the program in 1999. Hawaii being considered on the top list of the highest cost of living for decades, the program has not fairly compensated the professional service that we provide to support the adult foster care industry. Instead, the licensing, compliance and other additional credentialing requirements has quadrupled thus increasing our work ten-folds. We are unable to sustain professional registered nurses who are the core of this program not only for the low pay but also the huge increase in work load. Whereas our land lords, health insurance, utility companies and other services are able to increase their charges every year, our rates have not increased but instead have decreased contractually with the HMOs. Assessing re-licensing fees without any raise for the past 20 years seems really unfair.

Section 11 - I support this section allowing a fair and appropriate raise for caregivers and case manager's services to compensate for the increase in responsibility, accountability and liability and to afford the high cost of living and rising cost of doing business in Hawaii. A raise will allow us viability in the industry and allow us to provide quality care.

Whereas the purpose of Act is to establish various policies to adequately address the various issues concerning the elderly and disabled and the community healthcare industry while ensuring consumer protection for Hawaii's elderly and disabled, I would like to make a friendly recommendation for the regulation of referral agencies. They are utilized by acute and nursing institutions to rush discharge out of their facilities bypassing processes and standards that assures compliance and matching requirements. They actively work within facilities who are under the purview of the Department of Health; the services are provided by licensed registered nurses or licensed social workers who perform professional assessments and directly work with Medicaid clients. Charges to caregivers as much 50-100% of the caregiver's first month pay for the same service provided by the case management agency without a fee are being assessed. In order to promote quality in their screening process of their referrals and assure other appropriate processes of background checks, client choice, confidentiality, grievance and patient's rights necessary for licensed agencies working with Medicaid clients are upheld, regulatory oversight is needed for standardization purposes and to level the playing field.

As a pioneer in the home and community-based industry, Case Management Professionals, was part in building the infrastructure of the adult foster home industry. We see first-hand the value of the service we provide. We all have to work together and be vigilant that the care industry and the kupuna we serve are protected by standards of quality care through proper licensure, regulation and oversight.

Thank you for the opportunity to testify.

LATE

HB-582

Submitted on: 1/29/2019 12:08:37 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Miguel Rivera	Hawaii Caregiver Industry Institute	Oppose	No

Comments:

Testimony in Opposition to HB 582

HEARING: Tuesday, January 29, 2019 915 AM, in CR 329

TO: Rep. John Mizuno, Chair, and members of the Committee on Health.

TO: Rep. Joy A. San Buenaventura, Chair, and members of the Committee on Human Services.

HB 582 Establishes and amends provisions giving full employment to Nurse case managers over the caregivers of the elderly and disabled in state-licensed care facilities. Sets minimum wage for CNA substitutes and Nurse case managers.

This bill is an unfair, unorganized and and potentially disastrous. It serves only special interests, not the government, government employees (who maybe losing their jobs) the public and the caregivers who have to pay and their patients. As it is a stealth bill crafted and promoted by very experienced and slick lobbyists with huge unknown consequences and repercussions.

- 1. bill is extremely divisive and has the potential for a rupture of the working relationship of the stakeholders currently with the proponents of the stealth bill. It is a full employer bill for Nurse case managers but at the expense of all care and foster homes etc. And eventually the elimination of nurse surveyor HGEA jobs of the state.**

The bill purports to transfer the training and regulation of community care homes from the State nurse surveyors to private Nurse case managers that will eventually lead to the lost of State jobs.

The bill unfairly shifts the cost of regulation and training from the State by forcing community based care and foster homes, etc. to hire nurse case managers out of their own pockets without a corresponding increase in care home and foster homes increase in payment by state. This is patently fair and will drive the care

and foster homes etc. industry into the ground. They will no longer afford to operate a home.

For the above reasons, I urge you to hold this very bad and uncharted bill.

Miguel Rivera,

Hawaii CareGiver Industry Institute.

HB-582

Submitted on: 1/29/2019 9:01:44 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
roxanne	afha	Support	No

Comments:

I am one with our organization in support of this bill for the benefit of our fellow health providers. We have been working so hard to give the best care to our patients and we could appreciate it if we will be compensated right.also, the government should be more aggressive in tracking down unlicensed care home so everybody should be playing fair and square.Mahalo

LATE

ADULT FOSTER HOMECARE ASSOCIATION OF HAWAII

P.O. Box 970092, Waipahu, Hawai'i 96797

January 29, 2019

Maribel Tan
President

Testimony in Support of HB 582 – HLT/HSB - Jan. 29, 2019, 9:15 a.m., Rm. 329

Chairs Mizuno and Buenaventura, and Members of the Committee:

The Adult Foster Home Association of Hawaii (AFHA) **supports HB 582**, the caregivers omnibus bill. This bill contains provisions that protect the welfare of our clients, the elderly and disabled, while providing much needed relief for caregivers who have not seen any increase in reimbursement for over 10 years.

We provide 24/7 care 365 days a year for a flat-rate, which calculates to less than \$3.50 per hour – no overtime, no benefits – just \$3.50/hr for 24/7 care. We are willing to agree on raising the standards of care if we can get an increase in reimbursements – it's just so difficult financially, especially with the cost of housing and living in Hawaii is one of the highest in the nation, while our reimbursement rates are nowhere near comparable states.

The skyrocketing costs of providing care to the elderly and disabled make it nearly impossible to operate. Caregivers must pay their mortgage for their homes, most of which is used by the residents. Caregivers must also pay for electricity, water, and sewer costs that residents use; for property taxes, general excise taxes, and income taxes; for food, and kitchen, bathroom, and laundry supplies consumed by residents; for their cars and gasoline used to bring their residents to the doctor; for the insurance they are required to carry; for any entertainment they are expected to provide their residents. How do you stretch \$3.50 for all of these costs and still make a living?

Notwithstanding the lack of financial incentives, caregivers tirelessly provide personalized virtual one-on-one hands-on care to their residents. On a daily basis, caregivers cook for their residents menus that are mandated by the State; they clean the house so that they can meet stringent standards of cleanliness; they bathe their residents; they help residents use the bathroom; they dress their residents; they take their residents to medical appointments; they ensure that residents take their medicine; they do the laundry soiled by their residents; and after all this, they entertain their residents and help their residents preserve their dignity giving them the feeling that they still belong in the community. All this for \$3.50 per hour.

Very truly yours,

Maribel Tan
President

About AFHA

The Adult Foster Home Association of Hawaii (AFHA) is the industry trade association of providers under the Community Care Foster Family Home program under the Department of Human Services, State of Hawaii. With a membership of almost 750 providers, AFHA's mission is to promote the interests of providers as well as resident clients. AFHA members provide 24-hour care to resident clients 7 days a week, 365 days a year.

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HB-582

Submitted on: 1/29/2019 9:15:26 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Yvonne de Luna	Individual	Support	No

Comments:

I have some reservations regarding fees and compensation amounts left blank, as it is not clear what these will be.

I would like clarification on what constitutes as "community-based care home" and what types of care facilities fall under this bill.

There should be clearer and hopefully, simpler guidelines and support for people with special needs, their families and providers on navigating the DOH / DHS system to obtain and apply for various types of services. There should also be clear timeline to obtain a response from DOH/DHS on the status of those applications.

LATE

HB-582

Submitted on: 1/28/2019 9:10:51 PM
Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lilia P. Fajotina	Individual	Support	Yes

Comments:

LATE

HB-582

Submitted on: 1/29/2019 10:21:25 AM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Reavis	Individual	Comments	No

Comments:

I have concerns that page 9, regarding fees, there is not a dollar amount, its left blank. Page 11 re: compensation for caregivers and case managers. DOH case managers are already receiving compensation. Also on p 11, doesn't list dollar amounts, its left blank. What if a caregiver only has one client, will they still receive a set compensation as if they had full capacity? Page 12, again no dollar amounts.

Thank you for the opportunity to provide testimony.

HB-582

Submitted on: 1/25/2019 5:10:47 PM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

LATE

HB-582

Submitted on: 1/28/2019 8:38:56 PM

Testimony for HLT on 1/29/2019 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
christine oliveros	Individual	Support	No

Comments:

To Whom It May Concern;

Im Christine Oliveros one of the CCFFH operators. Im testifying to support the new caregiver bill HB582. I've been in the business for 10yrs now and didnt have pay increase since then and everything is going up and expensive and also the insurance pay Us late everytime and they didnt resolved that issue yet...Also approving the carehome application faster will help Us avoid caregivers to open an unlicensed home... Thank you N I hope U guys consider to see and approved this bill...

Testimony in Strong Support of HB582 with Recommendations for Amendments

TO:
HOUSE OF REPRESENTATIVES
THE Thirtieth LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON HEALTH
Rep. John Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

Rep. Della Au Belatti
Rep. Nadine K. Nakamura

Rep. Calvin K. Y. Say
Rep. James Kunane Tokioka

Rep. Joy A. San Buenaventura

Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, January 29, 2019
TIME: 9:15 a.m.
PLACE: Conference Room 329
State Capitol
415 South Beretania Street

From: Dr. Nancy Atmospera-Walch, DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN
President, AIM Healthcare Institute
President, ADVANTAGE Health Care Provider

Report Title: RELATING TO HEALTH

Description: Establishes and amends provisions relating to the care of the elderly and disabled in state-licensed care facilities. Appropriate funds.

Providing the Very Best Quality Care to the "Special Population, the Intellectually and Developmentally Disabled (I/DD)" is Our Business!

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Good Morning Chair Mizuno and to All of You, Honorable Representatives!

I am Dr. Nancy Atmospera-Walch, President, and the Chief Nursing Officer of Advantage Health Care Provider, a private company that is providing services to one of our most vulnerable population, the Intellectually and Developmentally Disabled (I/DD) on the islands of Oahu, Maui, and Kauai. I am also a Health Care Consultant to Case Managers, Case Management Agencies, Care Home Operators who are operating the ARCH or Expanded ARCH, as well as the Community Care Foster Family Homes.

Honorable Representatives, thank you for giving me the opportunity to testify today.

I am in strong support of the passing of HB 582 with the following recommendations as amendments for clarity, inclusiveness of all Home and Community Based Long Term Care Facilities, prevention of developing Rules that affect the industry without going to the Legislative Process, increasing efficiency of processes, removal of services that are duplicated, promoting standardization of processes which then result in decreasing cost and improving quality of Care, etc. My recommendations or rationale are highlighted in yellow.

Page 3 line 1 – (3) Community-based care home (I would like to add Adult DD Foster Home, Community Care Foster Family Home (CCFFH) and Domiciliary Home); and

Page 4 line 3 - Licensed or certified and under the purview of ONE Department of Health (OCHA) to ensure the health and safety, and welfare -----” by having consistency, efficiency, and standardized process, which is best obtained by having ONE Department for Licensure and certification, which then result in the quality of care and decreasing cost.

Page 4 line 9 - -----adult foster home (CCFFH), DD Adult foster home, Domiciliary Home

Page 11 line 14 & 16 - ----- FORM OF PAYMENT – 344/365 and Number of Beds: Adult residential care homes and Expanded ARCH and taking care of I/DD clients shall be paid daily (a day’s work, a day’s pay) based on the Level of Care of the Clients and NO additional indicators will be included in the payment calculations such as number of beds as the DD Division is not paying the Room and Board of the client. Staffing of clients based on the beds has been stipulated during licensing based on HAR 100.1. From my understanding, the Consultant hired by DD used the Arc Homes as the model for coming up with the current rate payment of ResHab Care Homes. This is not right as the Community-Based Care Homes which are residential homes are NOT the same as the Arc Homes, which are strictly operated as homes for the I/DD clients with a Manager employed on a 24/7 basis.

The 344 days method of payment contradicts the State DD’s own Rule, which is that Agency Providers or Caregivers cannot Bill for a service when the client is absent in the home or no service of care was provided. What I mean by this is, if a client’s calendar year started in January 2018, on the 12th month, which is December 2018, we can only bill 10 days as 334 days have been billed by the 11th month, which is November. However, with this method, if a client got hospitalized after December 10, then it becomes illegal as the caregiver has been paid for a full year as stated clearly on page 3, paragraph number one in a Memo sent out by the Administrator of the DD Division. This is double dipping the CMS as the Hospital would also bill the Health Plan for the days that client was hospitalized. Is this Legal? I don’t think so, as we have asked the CMS to pay both the Hospital for the hospitalization and the Caregiver who did not take care of the client during the hospitalization period.

The other problem with the 344 days payment method is when a client is transferred from one HCBS home to another HCBS home but within the same Agency Provider. For example, a client of mine whose budget year started in December 2017, but he was transferred to another home in September 2018. In October 2018, 334 days of the 344 was already billed which means that the new caregiver was only paid 10 days of the 3rd month, November 2018, that she had the client. Then a new budget year started again in December 2018, but once more, in November 2019, the PCG will only be paid again 10 days, which means that in a matter of 15 months, there are two months that the caregiver was paid only for a total of 20 days.

Another problem with this 344 day, no matter how you explain to the caregivers, by the time they received the 10-day paycheck, they complain and keep on saying they do not understand. If the State DD uses the standard of practice of paying day's work is a day's pay, these multiple problems would not occur.

Finally, for us, the Agency Providers, the 344-day payment has increased our workload since we must track who is having the 344 days the month that we are billing and we must keep on explaining to caregivers of why. Just look at the memo from the State explaining the different scenarios about the 344 days. I know I am smart and yet I must really read the memo very carefully to understand what they mean and even then, I am still not sure what they mean. It should not take 5 pages of Memo to explain the payment of a work done if we follow the Community Standard of Practice of a day's work is a day's pay.

Personally, the only one that truly benefits in this 344 day is the State because it looks like they are paying a higher daily rate for ResHab Services and their reasoning is to ensure that during the 21 days that a client might be absent from the home, the caregiver still gets the payment. But isn't that illegal that the State is paying the caregiver when the client is not in the home and no service was provided by the caregiver? Shouldn't the State return the unused money to CMS since CMS is paying already the hospitalization bill of the client?

In the January 15, 2019 Memo, page 3, paragraph 3, it was stated that "An agency could also decide to pay a rate that includes vacation days." This is not legal as Agency Providers could not include vacation days to Independent Contractors. The indicators of the difference between an employee and an independent contractor are very thin and giving vacation days to an independent contractor would surely make them employees.

Page 11 line 14 to line 20 Page 12 – line 5 to 7

Cost Share: Caregivers who are taking care of I/DD clients who have Cost Share, must have the Room and Board Payment be the same as any other clients who are receiving Medicaid. The Social Security only pays \$469.00 for Room and Board for all clients who have Cost Share, instead of the full payment of \$1, 372.90 for clients who are straight Medicaid.

The Social Security claims that the balance of the Room and Board shall be paid from the Extra Income of Private Money of the client, which made him/her a Cost Share client. For example, a client with extra income (Private Money) of \$2,000 per month, must be required by law to pay the Cost Share of \$903.90 to the Caregiver for the of the Room and Board, which was not covered by the Social Security.

The client still has \$1,090.10 to spend on other cost share expenses towards his/her care. The cost Share Amount assigned by Med Quest should not be larger than the amount left after paying the balance of the Room and Board and in this case, it should not be larger than \$1,090.10.

The I/DD Case Managers and other I/DD staff always say that DD cannot pay Room and Board and they are NOT. As the Social Security stated, the Cost Share is a Private Money of the Client that should be used to share the cost of his/her care and one of them is the Room and Board. Whatever is left after paying the balance of the Room and Board, that amount could then be used for other expenses related to the client's care. There are caregivers who have not been paid the full amount of the client's Room and Board for over 10 years.

According to CMS, each State develops their own rules as to how they manage and distribute the funds of clients with Cost Shares. **Therefore, I highly recommend following the Social Security's statement that the balance of the Room and Board shall be paid to the caregiver before other cost shares are paid. The Cost Share amount should not be larger than the left-over amount after paying the balance of the Room and Board to the Caregiver. Every caregiver who has not been paid the full amount of the Room and Board should be paid retroactively and with interest for that is the only right and fairway. The caregivers should not be punished for the errors of the State of not establishing the right process of payment for clients who have Cost Shares.**

Page 12 line 11 Case managers and (to add - I/DD Agency Providers)

The Agency Providers for the I/DD population are in dangers of collapse in the future, if the price wars among them continue. Yes, many I/DD Agency Providers are paying the independent contractors almost 90% from the State's Gross Payment to the Agencies, living them with a very slim margin to operate for the organizations' long-term viability as indicated by standard business practices for sustainability, including payment of GTE 4.5% Taxes (Oahu), Corporate Taxes, Employee Benefits and payroll taxes, legal and accounting fees, rent, and general administrative expenses, etc. **I believe that the State should provide a guideline or Policy Recommendation to Agency Providers such as retaining a minimum of 30% of the gross pay that they received from the State for the long-term viability of the provider organizations. This law will prohibit I/DD Agency Providers from having a price war, which can result in some agencies closing their business due to a very slim operating margins which are being crunched further by increasing expenses due to overwhelming administrative requirements being imposed to the Agency Providers**

Thank you for this opportunity to provide my testimony, and for hearing HB 582 bill.

Respectfully submitted,

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