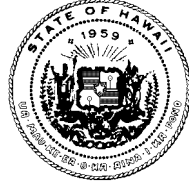


DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

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

February 5, 2022

TO: The Honorable Joy A. San Buenaventura, Chair  
Committee on Human Services

The Honorable Sharon Y. Moriwaki, Chair  
Committee of Government Operations

FROM: Cathy Betts, Director

SUBJECT: **SB 3258 – RELATING TO HEALTH.**

Hearing: Tuesday, Feb. 7, 2022, 3:00 p.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) provides comments with concerns.

**PURPOSE:** The purpose of the bill is to require the auditor to conduct a comprehensive study of the managed care organizations that administer the Medicaid program in the State.

The DHS Med-QUEST Division (MQD) takes seriously its mission to develop, promote, and administer innovative and high-quality healthcare programs with aloha. This work includes robust oversight of the QUEST Integration health plans while working in partnership to best serve the community. Of note, most of the requested review activities are already being done. For example, MQD and their contracted actuaries already evaluate the medical loss ratios (costs of administration vs. payments for healthcare services and providers) and analyze the data for any unusual trends.

Additionally, the current managed care contracts, effective 7/1/2021, with the five health plans serving the Medicaid population, include a requirement for all health plans to

conduct Timely Access/Secret Shopper surveys using an independent contractor. MQD and the health plans are in the final stages of the procurement for this contractor. The required External Quality Review Organization conducts comprehensive reviews of health plan quality assurance activities, utilization management, and performance improvement activities. Annual member surveys are done for each health plan, alternating between child and adult member surveys. The information is submitted to the federal oversight agency, the Centers for Medicare and Medicaid Services, which conducts its own audits and reviews of the managed care plans. Given the various reports and oversight activities already in place, DHS is concerned that a comprehensive review by the auditor would be redundant and not an effective use of the auditor's resources.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEES ON HUMAN SERVICES & GOVERNMENT  
OPERATIONS  
ON  
SENATE BILL NO. 3258

**February 8, 2022**  
**3:00 p.m.**  
**Room 225 and Videoconference**

RELATING TO HEALTH

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 3258 makes an unspecified general fund appropriation in FY 23 to the Legislative Auditor to conduct a comprehensive study of managed care organizations that administer the Medicaid program in the State.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

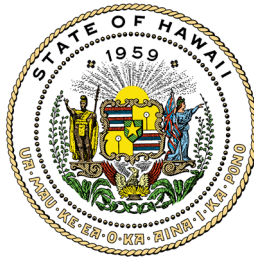
- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



SENATE COMMITTEE ON HUMAN SERVICES  
The Honorable Joy A. San Buenaventura, Chair  
The Honorable Les Ihara, Jr., Vice Chair

SENATE COMMITTEE ON GOVERNMENT OPERATIONS  
The Honorable Sharon Y. Moriwaki, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair

**S.B. NO. 3258, RELATING TO HEALTH**

Hearing: Tuesday, February 8, 2022, 3:00 p.m.

The Office of the Auditor appreciates the opportunity to testify on S.B. No. 3258, requiring the auditor to conduct a study of the managed care organizations that administer the Medicaid program in the state, and offers the following comments.

Specifically, the bill directs that the study shall include:

1. A financial analysis of managed care organizations that administer the Medicaid program by auditing:
  - A. Amounts paid for direct health care services, including laboratory and other testing services;
  - B. Amounts paid for quality improvement under the federal Patient Protection and Affordable Care Act; and
  - C. Amounts paid for administrative services, including a breakdown of:
    - i. Medical management administrative costs;
    - ii. Payment reform administrative costs; and
    - iii. Payments to providers of health care;
2. An assessment of network adequacy among Medicaid managed care plans, by conducting “secret shopper” surveys to determine how many physicians the plans claim to be network providers are actually accepting patients insured by the Medicaid managed care plans; and
3. An assessment of the extent of upcoding by Medicaid managed care plans to increase payments from Hawai‘i med-QUEST based on risk adjustment formulas that reward an overdiagnosis.

A companion bill, H.B. 2032, was heard by the Committee on Health, Human Services, and Homelessness and the measure deferred. Testimony on H.B. 2032 by the Department of Health indicates the Department of Human Services, Med-Quest Division (MQD) oversees managed health care contracts with five health plans serving the Medicaid population.

The Office of the Auditor was established to conduct audits of departments, offices, and agencies of the state and its political subdivisions. Our work primarily involves audits to assess a department or program's performance of its statutory duties, meaning we evaluate a department or program's operations against appropriate criteria, such as relevant statutes, administrative rules, policies, procedures, and best practices, to assist the Legislature and the agencies with improving program performance, reducing costs, and facilitating greater efficiency in state government.

Oversight of contractors performing work on behalf of MQD is best assessed by that agency. We suggest that the Department of Human Services, Med-QUEST Division may be better suited to perform the proposed study.

Thank you for considering our testimony related to S.B. No. 3258.



February 6, 2022

To: The Honorable Joy A. San Buenaventura, Chair,  
The Honorable Les Ihara, Jr., Vice Chair, and  
Members of the Senate Committee on Human Services

The Honorable Sharon Y. Moriwaki, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
Members of the Senate Committee on Government Operations

Re: **SB 3258 – RELATING TO HEALTH**

Hearing: Tuesday, February 8, 2022, 3:00 p.m., Room 225 & videoconference

Position: **Strong support with amendment**

Aloha Chairs San Buenaventura and Moriwaki, Vice Chairs Ihara, Jr., and Dela Cruz, and members of the Senate Committees on Human Services and Government Operations:

The Health Committee of the Democratic Party of Hawai'i strongly supports SB 3258 with an amendment. This measure would require the auditor to conduct a comprehensive study of managed care operations that administer the Medicaid program in the state.

The Health Committee of the Democratic Party of Hawai'i strongly supports this bill as it will provide a more detailed accounting of taxpayer dollars that fund our Medicaid system under the Department of Human Services. However, we request that the bill be amended to provide that the Legislative Reference Bureau be alternatively designated to conduct the study if the State Auditor determines that he is unable to conduct the study.

Under current law, the Affordable Care Act allows expenses not directly related to health care services, called “quality improvement” and “medical management,” to be included as actual health care services. As such, these excessive administrative practices are diminishing the quality of health care by exacerbating a growing doctor shortage, increasing hospital costs, reducing patient access, and rising premiums. On the other hand, states that have limited



February 6, 2022

Page 2

insurance industry participation by limiting managed care organizations to purely administrative services roles, show greater provider participation, increased patient access, more timely access, more efficient payments to providers, and lower costs by a substantial margin. All of this represents truly improved medical performance and causes improved doctor retention, as excessive time spent on reimbursement requests is reduced.

To avoid falling into a nationwide pattern of misleading insurance statistics, the Health Committee recommends that this bill distinguish between amounts paid for direct health care services and amounts paid for “quality improvement,” which is actually an administrative cost. When quality improvement costs are inserted into the cost of direct health care services, then the medical loss ratio is skewed. This misleads the government agency and the general public into erroneously believing that more taxpayer dollars are going to health care services than is actually the case.

This bill will require managed care organizations to differentiate between and report on actual health care services, separately from “quality improvement,” “medical management,” and administrative services. This requirement would much better achieve transparency and accuracy in the distribution of general funds for the State’s Medicaid program.

Fundamentally, the People of Hawai‘i need to know, and have every right to know, what extra costs the private health insurers take from the Medicaid program, and how the Hawai‘i Medicaid program can be managed to more effectively improve services to clients, treat the medical professionals better, and save taxpayer money overall.

For these reasons, we humbly suggest that this bill allow for a comprehensive study of the costs paid by managed care operators to providers and to themselves as administrative costs by:





February 6, 2022  
Page 3

Conducting a financial analysis of managed care organizations that administer the Medicaid program by auditing:

- (A) Amounts paid for direct health care services, including laboratory and other testing services;
- (B) Amounts paid for quality improvement, as defined pursuant to regulations supporting the federal Patient Protection and Affordable Care Act; and
- (C) Amounts paid for administrative services.

Thank you very much for the opportunity to testify on this very important bill. Please pass it with amendments.

Respectfully yours,

/s/ Melodie R. Aduja

Melodie R. Aduja  
Chair, Health Committee  
Democratic Party of Hawai'i  
Contact: [legislativepriorities@gmail.com](mailto:legislativepriorities@gmail.com) (808) 258-8889

/s/ Stephen B. Kemble, M.D.

Stephen B. Kemble, M.D.  
Member of the Hawai'i Health Authority and  
Member of the Health Committee  
Democratic Party of Hawai'i



February 6, 2022  
Page 4

/s/ Marion Poirier, R.N.

Marion Poirier, R.N.  
Vice Chair, Health Committee  
Democratic Party of Hawai'i and  
Member of the Hawai'i Health Authority

/s/ Alan B. Burdick, Esq.

Alan B. Burdick, Esq.  
Treasurer, Health Committee  
Democratic Party of Hawai'i



HAWAII

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**MAILING ADDRESS**

P.O. Box 23404  
Honolulu  
Hawaii 96823

February 4, 2022

TO: Chair Baker and Members of the CPN Committee

RE: SB 3258 Relating to Health

Support for a Hearing on February 8

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

Americans for Democratic Action Hawaii supports this bill as it would require the auditor to conduct a comprehensive study of managed care organizations that administer the Medicaid program in the State. We deserve to know where tax dollars are going. We also would be fine with an amendment to change the auditor with LRB.

Thank you for your consideration.

Sincerely,

John Bickel, President



To: The Honorable San Buenaventura, Chair  
The Honorable Ihara, Vice-Chair  
Senate Committee on Human Services

From: Peggy Mierzwa, Government Affairs, AlohaCare

Hearing: Tuesday, February 8, 2022, 3:00PM

RE: **SB3258** Relating to Health

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AlohaCare appreciates the opportunity to provide testimony in opposition to **SB3258**. This measure would require the auditor to conduct a comprehensive study of Managed Care Organizations (MCOs) that administer the Medicaid program in Hawai'i.

Founded in 1994 by Hawai'i's community health centers, AlohaCare is a community-rooted, non-profit health plan serving 80,000 Medicaid and dual-eligible health plan members on all islands. We are the only health plan in Hawaii that exclusively serves Medicaid beneficiaries. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for access to quality health care for all. We believe that health is about supporting whole-person care.

AlohaCare takes seriously the responsibility to demonstrate effective financial stewardship as a Hawai'i non-profit Medicaid health plan. We comply with the many state and federal regulations in place that ensure Hawai'i's Medicaid health plans operate with integrity. Clinical and operational reports are provided to the Med-QUEST Division on a regular basis for oversight monitoring. The Med-QUEST Division contracts with an external quality review organization, which conducts independent audits of the MCOs each year. Additionally, there are financial audits, audits on bid information and programs, readiness review for new contracts, NCQA accreditation reviews, quality audits; and CMS requires information on network adequacy, services rendered, and timeliness of services.

Many of the federal reporting requirements for the Medicaid plans can be found via the [CMS.gov](https://www.cms.gov) website.

Mahalo for this opportunity to testify on **SB3258**.



February 3, 2022

The Honorable Joy A. San Buenaventura, Chair  
The Honorable Les Ihara, Jr., Vice Chair  
Senate Committee on Human Services

The Honorable Sharon Y. Moriwaki, Chair  
The Honorable Donovan Dela Cruz, Vice Chair  
Senate Committee on Government Operations

### **Senate Bill 3258 – Relating to Health**

Dear Chair San Buenaventura, Chair Moriwaki, Vice Chair Ihara, Vice Chair Dela Cruz, and  
Members of the Committees:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify in **opposition** to SB 3258. HAHP is a statewide partnership of Hawaii's health plans and affiliated organizations to improve the health of Hawaii's communities together. The vast majority of Hawaii residents receive their health coverage through a health plan associated with one of our organizations.

HAHP believes that affordable, quality health care should be accessible to all individuals in Hawaii. QUEST health plans are required to provide regular reports to both the Med-QUEST Division and the Centers for Medicare and Medicaid Services (CMS) where they are required to include consistent demonstration of savings in managed Medicaid programs. The QUEST health plans are also routinely audited by the state's external quality review organizations and are required to maintain National Committee for Quality Assurance (NCQA) accreditation.

The Med-QUEST Division continuously monitors to ensure provider access and availability. Acuity risk adjustment to capitation rates is in place for the non-aged/blind/disabled Medicaid populations to adjust payments to a QUEST health plan's member mix and in aggregate, the risk factor adjustment to the state is zero.

It is also important to note that health plans do not code. Health providers code on claims submitted to the health plans.

Thank you for allowing us to provide testimony on SB 3258.

[hahp.org](http://hahp.org) | 818 Keeaumoku St., Honolulu, HI 96814 | [info@hahp.org](mailto:info@hahp.org)

AlohaCare | HMAA | HMSA | Humana | HWMG | Kaiser Permanente | MDX Hawaii | Ohana Health Plan |  
UHA Health Insurance | UnitedHealthcare



Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

[hahp.org](http://hahp.org) | 818 Keeaumoku St., Honolulu, HI 96814 | [info@hahp.org](mailto:info@hahp.org)

AlohaCare | HMAA | HMSA | Humana | HWMG | Kaiser Permanente | MDX Hawaii | Ohana Health Plan |  
UHA Health Insurance | UnitedHealthcare



February 3, 2022

The Honorable Joy A. San Buenaventura, Chair  
The Honorable Les Ihara, Jr., Vice Chair  
Senate Committee on Human Services

The Honorable Sharon Y. Moriwaki, Chair  
The Honorable Donovan Dela Cruz, Vice Chair  
Senate Committee on Government Operations

Re: SB 3258 – Relating to Health

Dear Chair San Buenaventura, Chair Moriwaki, Vice Chair Ihara, Vice Chair Dela Cruz and  
Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 3258, which requires the auditor to conduct a comprehensive study of managed care organizations that administer the Medicaid program in the State.

HMSA appreciates the intent of this measure to increase transparency and health care cost-savings; however, there are many efforts in place to ensure a focus on these areas. Health insurance is heavily regulated at both the state and federal levels. Hawaii's QUEST health plans are routinely audited by the state's external quality review organization and are required to maintain accreditation with the National Committee for Quality Assurance (NCQA). The QUEST health plans also regularly submit reports to Med-QUEST and the Centers for Medicare and Medicaid Services (CMS) where they are required to consistently demonstrate savings in managed care programs.

In addition to the requirements of the managed care program, HMSA also offers supplemental programs for Medicaid members to manage their health and safety, including programs for maternity, well-being resources, health education workshops, mail-order pharmacy, smoking cessation, and identity protection. Our Medicaid members may take advantage of these supplemental programs in addition to their standard plans.

Thank you for the opportunity to submit comments on SB 3258.

Sincerely,

Matthew W. Sasaki  
Assistant Vice President  
Government & External Relations

COMMITTEE ON HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair  
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON GOVERNMENT OPERATIONS

Senator Sharon Y. Moriwaki, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

NOTICE OF HEARING

SB3258

DATE: Tuesday, February 8, 2022  
TIME: 3:00pm  
PLACE: Conference Room 225 & Videoconference  
TIMESLOT: HMS

Position: Strong support with amendments.

Dear Honorable Members of the Committees:

The house companion of this bill was recently deferred by Chair Yamane, and for seemingly good reason, at first glance. The bill calls for the auditor to perform a study of the HMO organizations which mismanage Medicaid. The auditor testified that he does not provide studies, he provides audits, and, that he only audits state agencies, whereas the HMO's are private companies.

I propose that the word 'study' be replaced with 'audit' in the bill, and that a private company which is hired by the state be subject to the same level of accountability as a state agency. The private HMO's which are hired by MedQuest Hawaii manage over two billion tax payer dollars for Medicaid. Surely a private agency hired by the state of Hawaii is not immune to state oversight on the technicality of being a private contractor.

Other apparently good reasons for deferring the bill came from HMSA and Judy Peterson, the director of MedQuest Hawaii. They both testified that MQD (MedQuest Hawaii) regularly publishes self audits, and that most of the information asked for in the bill is either reported to CMS or available from Judy Peterson herself upon request, except for some non specific data which she called "proprietary." The Health Committee of the Hawaii Democratic party promptly sent a letter to Judy Peterson asking her for that allegedly publicly available data. I do not have high hope that they will receive it based on a three-email exchange they had with Director Peterson last year. In that exchange Director Peterson refused to respond to specific questions about how the 'quality metrics' and 'medical management' were adding cost while reducing value.

**However, we do not seek an audit similar in scope with the self-audits performed by the insurance companies of their own performance. We seek to reveal details which the MQD audits do not reveal. A thorough analysis of MQD's quality improvement metrics and medical management will result in the conclusion that healthcare delivery is harmed by the addition of so much micro management to the daily tasks of physicians that their ratio of patient charting to patient care doubled. Doubling paper work for physicians does not improve the quality of healthcare, it just adds administrative cost and reduces the number of patients they can see in a day.**

For example, the quality improvement metrics and the medical management costs are allowed by federal law to be classified as a medical cost in health insurance companies' Medical Loss Ratio. However, what is not so certain is whether or not those metrics and the medical management are beneficial or are instead a huge drastic mistake.

An example of a huge drastic mistake is a policy decision which increases the administrative costs of private practice physicians to the point where they are forced to retire early, quit their practice, leave the state or go to work for a hospital. Healthcare costs more at Hospitals than it does at private clinics and private clinics were located broadly across the state much more than large hospitals are, until the clinics had to close, due to the increased cost of business these 'quality improvement' metrics and simultaneous increases in medical management over the last decade have caused. The result is less access to healthcare and the care that remains costs more. Why make that choice?



Basically every analysis of why healthcare in the USA costs twice as much per capita as 20 other nations with either single payer or various hybrid forms of Universal Healthcare lands on two primary causes of the USA's uniquely high cost of healthcare: we spend far more on administrative costs than other nations (both on the insurance side and as a result of that, vastly higher admin costs for providers) and we are the only nation which doesn't have a national formulary for negotiating prescription drug prices.

Nations without MQD's 'quality control metrics' or medical management spend far less on healthcare and have much better healthcare outcomes.

Hawaii has an opportunity to examine the true administrative costs within the 93% Medical Loss Ratio claimed by Hawaii's Medicaid providers. If those costs are examined, it is certainly the case that the legislature would then understand the harm they are causing. Please support this audit and also please request additional detail on my claims. Challenge these claims and review the evidence in a professional presentation, please.

Remember, when Director Peterson and Dr. Mark Mugiishi repeatedly claim, "Medicaid spends 93% of its budget on medical costs, so there is very little, if any, room for cutting administrative costs," that they are concealing from you the ACA allows 'quality improvement metrics' and 'medical management' to be classified as medical. Just because some of those costs are reported to CMS or are allegedly publicly available by request does not mean that those costs are useful and it does not mean that a useful understanding of those metrics is publicly available. Moreover, whatever admin costs the insurer has will result in similar admin costs on providers, so please remember that any simplification on the insurer side results in decreasing the cost of billing an insurance company, which is how Hawaii can bring its physicians back.

How often does an entity publish an audit of itself which reveals any flaws?

In fact, all observable evidence strongly shows that increasing health insurance complexity adds administrative cost to healthcare. Given that the USA ranks around 29<sup>th</sup> for healthcare outcomes, it doesn't appear that adding hours of daily 'quality improvement' metrics to physicians daily chores did anything other than add cost.

Self audits are not useful. After the specific audit described in this bill or some separate thorough analysis of MQD's HMOs – which could start today if they would cooperate - is complete, the legislature will then have the information it needs to make beneficial decisions for Hawaii's healthcare.

Thank you very much for time,

Dennis B Miller

[www.m4ahi.org](http://www.m4ahi.org)

PS: One opposition testimony to HB2032 by Hawaii Association of Health Plans opined that "insurance companies do not code." This was apparently in response to the bill calling for an audit of upcoding being committed by the HMOs managing Medicaid.

Here is a response to that by Dr. Stephen Kemble:

"When the health plans say they don't "code," what they mean is that doctors and other qualified health professionals assign diagnostic codes. What plans do is they try to gather as many diagnoses as possible and persuade doctors to code diagnoses in as much detail as possible and preferably use codes suggesting higher severity of illness. They do this because, especially if they are paid by government programs such as Medicare or Medicaid, their pay is "risk adjusted" to pay more for sicker patients and less for healthier patients based on diagnosis coding. Aggressive "diagnosis code gathering" and pressure on doctors to increase the detail and severity of diagnoses are pervasive problems in capitated plans funded by government, such as Medicare Advantage plans and Medicaid Managed Care plans. The DOJ is now investigating insurance fraud to the tune of around \$30 billion a year from all the major insurers in the Medicare Advantage Market."



**LATE**

**SB-3258**

Submitted on: 2/7/2022 8:44:47 PM

Testimony for HMS on 2/8/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Shannon Rudolph	Individual	Support	No

Comments:

Support /with an amendment for the LRB to conduct an audit if the Auditor's Office can't.