H.B. NO. 3157

A BILL FOR AN ACT

RELATING TO DIRECT PAYMENT TO PROVIDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State's
2 healthcare system is in financial crisis due to low
3 reimbursements and increasing costs. The low reimbursement
4 rates have forced hospitals and other providers to institute
5 cost-cutting measures that may not be in the best interest of
6 consumers. Providers negotiate contracts with insurers, mutual
7 benefit societies, and health maintenance organizations.
8 However, the providers are not in an equal bargaining position
9 when negotiating the contracts. Providers are forced to either
10 accept rates that are often substantially below the cost of
11 providing the services or be classified as a "non-participating
12 provider", which results in some payers making reimbursement
13 directly to the patient rather than to the provider. The
14 provider is then forced to collect the fees from the patient,
15 which results in increased collection costs, delayed payments,
16 and substantially lowered collection success with a potential
17 for increased cost for the individual receiving the services.

The purpose of this bill is to further the public's interest in maintaining a financially sound healthcare system by requiring insurers, mutual benefit societies, and health maintenance organizations to pay healthcare providers directly regardless of the healthcare provider's participatory status with the insurer, mutual benefit society, or health maintenance organization.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding to article 10A a new section to be appropriately designated and to read as follows:

"**§431:10A- Direct payment for healthcare services.** (a) An insurer, after receiving a claim for payment of benefits, shall make the payment directly to the healthcare provider that provided the services, regardless of the healthcare provider's participatory status with the insurer's plan; provided that this sub-section shall not require payment for services that are not covered under the plan.

(b) If the insurer makes payment to the insured, the insurer shall remain liable for payment to the healthcare provider. This subsection shall not prohibit the insurer from recovering any amount mistakenly paid to the insured.

(c) The term healthcare provider as used in this section means a provider of services, as defined in 42 U.S.C. § 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. § 1395x(s), and any other person or organization who furnishes, bills, or is paid for healthcare in the normal course of business.

(d) The provisions of this section shall not apply to any entity or situation when their application to the entity or situation would be preempted under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 100, et seq."

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding to article 1 a new section to be appropriately designated and to read as follows:

"**§432:1- Direct payment for healthcare services.** (a) A mutual benefit society, after receiving a claim for benefits under this chapter, shall make payment directly to the healthcare provider that provided the services, regardless of the healthcare provider's participatory status with the society's healthcare plan; provided that this sub-section shall not require payment for services that are not covered under the plan.

1 (b) If the society makes payment to the member, the
2 society shall remain liable for payment to the healthcare
3 provider. This subsection shall not prohibit the society from
4 recovering any amount mistakenly paid to the member.
5 (c) The term healthcare provider as used in this section
6 means a provider of services, as defined in 42 U.S.C. §
7 1395x(u), a provider of medical and other health services, as
8 defined in 42 U.S.C. § 1395x(s), and any other person or
9 organization who furnishes, bills, or is paid for healthcare in
10 the normal course of business.
11 (d) The provisions of this section shall not apply to any
12 entity or situation when their application to the entity or
13 situation would be preempted under the Employee Retirement
14 Income Security Act of 1974, 29 U.S.C. § 100, et seq."
15 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:
18 "**§432D- Direct payment for health care services.** (a) A
19 health maintenance organization, after receiving a claim for
20 benefits under this chapter, shall make payment directly to the
21 healthcare provider that provided the services, regardless of
22 the healthcare provider's participatory status with the health

1 maintenance organization healthcare plan; provided that this
2 sub-section shall not require payment for services that are not
3 covered under the plan.
4 (b) If the health maintenance organization makes payment
5 to the enrollee, the health maintenance organization shall
6 remain liable for payment to the healthcare provider. This
7 subsection shall not prohibit the health maintenance
8 organization from recovering any amount mistakenly paid to the
9 enrollee.
10 (c) The term healthcare provider as used in this section
11 means a provider of services, as defined in 42 U.S.C. §
12 1395x(u), a provider of medical and other health services, as
13 defined in 42 U.S.C. § 1395x(s), and any other person or
14 organization who furnishes, bills, or is paid for healthcare in
15 the normal course of business.
16 (d) The provisions of this section shall not apply to any
17 entity or situation when their application to the entity or
18 situation would be preempted under The Employee Retirement
19 Income Security Act of 1974, 29 U.S.C. § 100, et seq."
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SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

Report Title:
Direct Payment to Providers

Description:
Allows medical services providers to receive payment directly from health insurers, health maintenance organizations, and mutual benefit societies, rather than attempting to collect from the patient when the provider does not have a contract with the insurer.

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JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO DIRECT PAYMENT TO PROVIDERS.

PURPOSE: To ensure reimbursement to providers by directing payers of health services to reimburse directly to the healthcare providers regardless of the contractual arrangement with the provider when services covered by the plan are provided to a plan member.

MEANS: Add new sections to chapter 431:10A, 432:1, and 432D to require, respectively, healthcare insurers, mutual benefit societies, and health maintenance organizations to reimburse directly to a healthcare provider.

JUSTIFICATION: Currently, if a health care provider is a non-participant, i.e., the provider does not have a contractual arrangement with a health care payer, the health care payer may make reimbursement to the individual receiving the services, rather than to the healthcare provider. This results in unnecessary additional collection costs to the provider, additional losses, reduced services to the public and potentially additional cost for the individual receiving the services.

Impact on the public: Improving the reimbursement processes will improve services to the public.

Impact on the department and other agencies: Same as above.

GENERAL FUND: None.

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OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION:

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.