



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

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

February 26, 2014

TO: The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means

FROM: Barbara A. Yamashita, Deputy Director

SUBJECT: **S.B. 1227, S.D.1 - RELATING TO HEALTH COVERAGE
FOR BRAIN INJURIES**

Hearing: Wednesday, February 26, 2014; 9:15 a.m.
Conference Room 211, State Capitol

PURPOSE: The purpose of this bill is to require certain insurance contracts and plans to provide coverage beginning 1/1/2014 for treatment of brain injuries, including cognitive and neurocognitive therapy, neurobehavioral and neuropsychological testing or treatment, and necessary post-acute transition services or community reintegration activities for a period of at least twenty years from the date the injury occurred and up to a lifetime cap per person of \$300,000.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure but respectfully opposes the measure.

The DHS recognized the importance of cognitive behavior therapy and has received approval from the Centers for Medicare and Medicaid Services (CMS) to provide this service to Medicaid recipients who meet criteria. Recipients will receive cognitive behavioral services as long as it is determined to be medically necessary and the recipients are eligible

for coverage under Medicaid. Medicaid also covers medically necessary physical, occupational, and speech therapy. Medicaid is also required to cover all medically necessary care for children, including treatment for traumatic brain injury, under the Early and Periodic, Screening, Diagnosis, and Treatment requirements.

The other services listed in this bill are not well defined and for adults may not be a covered service by Medicaid. If the service is not covered by Medicaid but the health plans contracted with the DHS are required to provide them as the result of this measure, the services would have to be state-only funded and the DHS will require an additional appropriation.

As written, the DHS cannot determine the amount of funds needed. Therefore, we respectfully oppose this measure.

Thank you for the opportunity to testify on this measure.



LATE

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Ways and Means

S.B. 1227, S.D. 1, Relating to Health Coverage for Brain Injuries

**Testimony of Lynn N. Fallin
Deputy Director, Behavioral Health Administration**

February 26, 2014

WRITTEN TESTIMONY ONLY

- 1 **Department's Position:** Appreciates intent.
- 2 **Fiscal Implications:** The Department defers to DCCA for cost implications.
- 3 **Purpose and Justification:** Based upon best practice, research, clinical and treatment guidelines, the
- 4 Department recognizes the efficacy of cognitive rehabilitation for persons that survive brain injury.
- 5 There is a growing trend of health plans that provide this coverage. Based upon information obtained
- 6 from the Brain Injury Association of America, the state of Texas is the only state that mandates
- 7 insurance coverage for cognitive rehabilitation.
- 8 The Department notes that in 2011 the HMSA began providing coverage for cognitive rehabilitation
- 9 and sensory integration therapy and is consistent with other Blue Cross Blue Shield organizations who
- 10 have decided to provide coverage without a mandate.
- 11 Thank you for this opportunity to testify.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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KEALI'I S. LOPEZ
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JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Wednesday, February 26, 2014
9:15 a.m.

WRITTEN COMMENTS ONLY

**TESTIMONY ON SENATE BILL NO. 1227, SD 1 – RELATING TO HEALTH
COVERAGE FOR BRAIN INJURIES.**

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department takes no position on this bill, and submits the following comments on this bill.

The purpose of this bill is to add a new mandated health insurance benefit requiring health insurers, hospital and medical services plan, and health maintenance organizations to provide health coverage for survivors of brain injuries. This bill is a medical matter that is outside of our expertise.

Additionally, the addition of a new mandated coverage may trigger section 1311(d)(3) of federal Patient Protection and Affordable Care Act, which requires states to defray the additional cost of any benefits in excess of the essential health benefits of the state’s qualified health plan.

Any proposed mandated health insurance coverage requires the passage of a concurrent resolution requesting the State Auditor to prepare and submit a report assessing the social and financial impacts of the proposed mandate, pursuant to Hawaii

Senate Bill No. 1227, S.D. 1
DCCA Testimony of Gordon Ito
Page 2

Revised Statutes § 23-51. Therefore, the Department respectfully requests that section 6 of the bill be amended to require the State Auditor, and not the Department, to report on the economic impact of the expanded coverage on affected insurers.

We thank the Committee for the opportunity to present testimony on this matter.



**Testimony to the Senate Committee on Ways and Means
Wednesday, February 26, 2014 at 9:15 A.M.
Conference Room 211, State Capitol**

**RE: SENATE BILL 1227, SD1 RELATING TO HEALTH COVERAGE FOR
BRAIN INJURIES**

Chair Ige, Vice Chair Kidani, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 1227, SD1 Relating to Health Coverage for Brain Injuries.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Health plans generally provide services for acute conditions with demonstrated outcomes. Cognitive rehabilitation therapy aids individuals in the management of specific problems such as perception, memory, thinking, problem solving, and could also include social or vocational training. Some of these treatments are far from the types of services that a typical health plan is expected to provide.

The State Auditor conducted a study in 2004, an "Assessment of Proposed Mandatory Health Insurance for Cognitive Rehabilitation." In this study, it was discovered that "more conclusive information is needed before mandated health insurance requirements are enacted. While more recent independent studies continue to reflect an insufficiency of evidence to support the effectiveness of these therapies, we would urge the Legislature to consider an updated review of this issue to determine if any of the mentioned treatments have been deemed to be effective before mandating coverage of these therapies.

Also our concern is that many businesses will have to bear a large part of the cost as most employers pay for over 90% of their employee's premium costs.

Thank you for the opportunity to testify.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 26, 2014

The Honorable David Y. Ige, Chair
The Honorable Michelle N. Kidani, Chair
Senate Committees on Ways and Means

Re: SB 1227, SD1 – Relating to Health Coverage for Brain Injuries

Dear Chair Ige, Vice Chair Kidani and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1227, HD1. With all due respect, HMSA opposes this Bill which provides for coverage for an unfunded mandated benefit retroactive to December 31, 2013.

Cognitive rehabilitation therapy consists of programs that provide therapy to persons with traumatic brain injury. Such therapy aids individuals in the management of specific problems in perception, memory, thinking and problem solving. Therapy may also include social and vocational training. Some of the treatment included within this class may go far beyond the type of services a health plan typically provides. Health plans generally provide services for acute conditions with demonstrated outcomes, and the coverage outlined within this measure may continue indefinitely whether or not the treatment was benefitting the member.

In its 2004 study, *“Assessment of Proposed Mandatory Health Insurance for Cognitive Rehabilitation,”* the State Auditor found that “more conclusive information is needed before mandated health insurance requirements are enacted. While more recent independent studies continue to reflect an insufficiency of evidence to support the effectiveness of these therapies, the Legislature may wish to consider an updated review of this issue by the Auditor to determine if any of the mentioned treatments have been deemed to be effective since the publication of the initial report.

Pursuant to the Affordable Care Act, the cost of providing these services under a new mandate must be borne by the State. And, that applies to plans sold both through and outside of the health insurance exchange. It is important that the Legislature clarifies the financial impact of a coverage mandate for those services on the State budget and on community and the health care system.

Thank you for the opportunity to express our concerns in opposition to this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman
Vice President
Government Relations

Testimony of
John M. Kirimitsu
Legal and Government Relations Consultant

Before:
Senate Committee on Ways and Means
The Honorable David Y. Ige, Chair
The Honorable Michelle N. Kidani, Vice-Chair

February 26, 2014
9:15 am
Conference Room 211

Re: SB 1227, SD1 - Relating to Health Coverage for Brain Injuries

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on this bill mandating insurance coverage for certain therapy and services to treat survivors of traumatic brain injuries.

Kaiser Permanente Hawaii opposes this bill in its current draft.

This issue of mandating insurance coverage for cognitive rehabilitation for survivors of traumatic brain injuries has a long standing history before the Hawaii legislature. In 2004, the Hawaii legislature requested an audit assessment on the social and financial impact of mandating insurance coverage for cognitive rehabilitation for those with traumatic brain injuries, pursuant to Sections 23-51 and 23-52 of the Hawaii Revised Statutes. In that study, the Auditor failed to make any recommendations because “more conclusive information is needed before mandated health insurance requirements are enacted.” The Auditor’s inconclusive findings were based upon the following determinations:

- “Current literature indicates scientific studies are on-going, and existing studies have not definitely determined the efficacy of cognitive rehabilitation for traumatic brain injuries. Much of the research has been largely anecdotal. Definitive scientific studies are still in their infancy, and part of the problem with existing studies is the lack of a standard definition for cognitive rehabilitation.”
- “According to an official at the State Department of Health, there is currently no standard operational definition of cognitive rehabilitation.”

- “In addition to the lack of more conclusive studies, conflicting survey results from consumers and insurance companies led us to conclude that the social and financial impact of health insurance coverage for cognitive rehabilitation for traumatic brain injury cannot be determined at this time.”
- “An example of a conflicting response is in the area of the level of public demand for the treatment or service. For the most part, consumers indicated a moderate to significant demand for services, while insurers indicated little to no demand. [O]ne insurer stated that the uncertain definition of cognitive rehabilitation makes it difficult to identify which specific services would be included.”

The complete Legislative Reference Bureau report and its findings may be viewed at <http://files.hawaii.gov/auditor/Reports/2004/04-11.pdf>

As concluded in the Auditor’s report, notwithstanding the lack of evidence based studies to support the efficacy of cognitive rehabilitation for traumatic brain injuries, this bill’s proposal of mandated insurance coverage for “cognitive rehabilitation” is overbroad. Without a standard definition, it is difficult to identify, study, and quantify the various therapies that can make up cognitive rehabilitation to determine its social and financial impact. The definitional problem also makes it difficult to gather data. For health insurers, the primary method to identify diagnosis and treatments for claims purposes is to analyze treatment codes. These codes consist of brief, specific descriptions of each diagnosis or treatment and an identification number. However, some cognitive rehabilitation treatments, such as neurobehavioral treatment and neurocognitive therapy and rehabilitation, are too general to be associated with particular treatment codes. Therefore, the uncertain definition of “cognitive rehabilitation” makes it difficult to determine which services would be included.

Currently, Kaiser provides certain cognitive treatment, i.e. helping a patient to improve memory skills, problem solving strategies, visual tracking/processing, compensatory techniques, etc., which is integrated with other therapies, such as occupational, speech, and physical therapy as part of its rehabilitation services. As part of its rehabilitation services, Kaiser also offers community integration as part of functional activity training in the clinic by working with patients to simulate situations that may occur in the community, i.e., shopping, social interactions, using a computer, etc.

Therefore, we agree with the auditor’s report that a standard operational definition of cognitive rehabilitation, as well as defining the other “general” therapy and rehabilitation services requested in this bill, i.e., neurocognitive therapy and rehabilitation, is necessary to determine the social and financial impact of health insurance coverage, as well as to assist the health insurers to determine which services would be included, or if those services are already covered.

Thank you for the opportunity to comment.

HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE SENATE THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2014

Committee on Ways and Means Testimony in Support of S.B. 1227, SD1 Relating to Health Coverage For Brain Injuries

**Wednesday, February 26, 2014, 9:15 A.M.
Conference Room 211**

Chair Ige and Members of the Committee:

The Hawaii Disability Rights Center testifies in support of this bill.

The purpose of the bill is to require insurance companies to provide coverage for brain injuries. This is a very important bill and this coverage is very appropriate for insurance policies. The whole point of insurance is to spread risk and cost among an entire population, so that disproportionate, catastrophic expenses are not heaped upon specific individuals or groups.

Awareness of brain injury, both traumatic and acquired, has increased exponentially in the past ten to fifteen years. For a long time, individuals with brain injuries truly represented a gap group in terms of receiving services from the state. Despite some overlap in their presenting symptoms, they did not possess the requisite diagnoses to fit into the DD/MR waiver or receive services from the Department of Health AMHD.

Today, however, virtually everybody has heard the expression that traumatic brain injury is the signature wound of the wars around the world. In light of its ever increasing prevalence, it is time to comprehensively address it and provide the necessary coverage to receive appropriate treatment that can help people make the maximum possible recovery. In general, receiving immediate acute hospital care has not been a particular issue. What has been lacking has been coverage for rehabilitation care following the hospitalization and then further treatment such as cognitive therapy. This

bill outlines a very good range of treatments that have proven effective to assist in recuperating from brain injuries.

Inasmuch as brain injuries have unfortunately become common and the costs are so high, insurance coverage is very appropriate as a mechanism to spread the risk and cost amongst all of us. Therefore, this bill would seem to be a good approach to addressing this problem.

Thank you for the opportunity to testify in support of this measure.