

Honolulu, Hawaii

FEB 18 2015

RE: S.B. No. 736
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 736 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require an entity to send written notice to a health care provider at least thirty calendar days prior to initiating any insurance recoupment or offset demand efforts; and
- (2) Prohibit an entity from initiating any recoupment or offset efforts more than twelve months after an initial claim payment was received by a health care provider, with certain exceptions.

Your Committee received testimony in support of this measure from the Hawai'i Psychological Association, Hawaii Medical Association, and Hawai'i Primary Care Association. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs and Hawaii Medical Service Association.

Your Committee finds that insurance recoupment occurs when a health insurance plan pays benefits to providers and later seeks reimbursement for the benefits, after the health insurance plan determines that the benefits were paid out in error. Although health care providers in Hawaii generally have twelve months to



submit claims to health insurance plans, there is no similar time limit that prevents health insurance plans from attempting to recoup funds previously paid to health care providers.

Your Committee further finds that this measure proposes a twelve-month standard time frame for insurance recoupment or offset demand efforts. Your Committee has heard testimony that twelve to eighteen months is a common time frame for recoupment or offset demand efforts by health insurance plans in Hawaii. Your Committee also notes that federal law does not place specific time limits on recoupment recovery. Amendments to this measure are therefore necessary to clarify that recoupment or offset efforts under state law do not apply to Medicaid, Medicare, or other federally financed plans. Amendments to this measure are also necessary to address a time limit on recoupment or offset efforts in cases of fraud or material misrepresentation.

Accordingly, your Committee has amended this measure by:

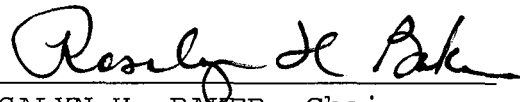
- (1) Clarifying that the reimbursement for accident and health or sickness insurance benefits applies to accident and health or sickness insurers issuing comprehensive medical plans under specific portions of the State Insurance Code;
- (2) Specifying that an entity is prohibited from initiating any recoupment or offset efforts more than eighteen months after an initial claim payment was received by a health care provider or health care entity;
- (3) Clarifying that the time limit on recoupment or offset efforts shall not apply to claims for self-insured employer groups; for services rendered to individuals associated with a health care entity through a national participating provider network; or for claims for Medicaid, Medicare, Medigap, or other federally financed plan;
- (4) Specifying that in cases of fraud or material misrepresentation, an entity is prohibited from initiating any recoupment or offset efforts more than seventy-two months after the initial claim payment was received by a health care provider or health care entity;



- (5) Adding definitions for "acute care hospital" and "fraud" and clarifying the definitions of "clean claim" and "health care facility";
- (6) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 736, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 736, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 736	Committee Referral: CPN, JDL	Date: 2/13/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
KAHELE, Gilbert	✓			
KIDANI, Michelle N.	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn	✓			
SLOM, Sam				✓
TOTAL	6	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes