Study of Proposed Mandatory Health Insurance Coverage for Medically Necessary Transportation from the State to the Continental United States for *"Qualifying Patients"*

A Report to the Governor
and the Legislature of
the State of Hawai‘i

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OFFICE OF THE AUDITOR
STATE OF HAWAI‘I

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STATE OF HAWAIʻI

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Foreword

We assessed the social and financial impacts of mandating insurance coverage for medically necessary transportation from the State to the continental United States as proposed in House Bill No. 687, pursuant to Sections 23-51 and 23-52, Hawai‘i Revised Statutes (HRS). Section 23-51, HRS, requires passage of a concurrent resolution requesting an impact assessment by the Auditor before any legislative measure mandating health insurance coverage for a specific health service, disease, or provider can be considered. The 2018 Legislature requested this assessment through House Concurrent Resolution No. 52, Senate Draft 1, House Draft 1.

We wish to express our appreciation for the cooperation and assistance extended to us by the State's health plan providers and medical professionals, as well as other organizations and individuals we contacted during the course of our work on this study.

Leslie H. Kondo
State Auditor

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Study of Proposed Mandatory Health Insurance Coverage for Medically Necessary Transportation from the State to the Continental United States for *"Qualifying Patients"*

Introduction

THE AIRLINE DEREGULATION ACT OF 1978 prohibits the regulation of price, route, or service of air carriers for the purposes of keeping national commercial air travel competitive and airfare low. Although the medical air transportation industry was in its infancy at the time, court decisions later determined that air ambulances are "air carriers" as defined by the Airline Deregulation Act.[1] While deregulation of the airline industry has resulted in more competitive commercial airfares, it does not appear to have had similar impacts for the air ambulance industry.

Given the often urgent nature of the transports, patients typically have little to no choice over the service or provider. We found that the cost for air ambulance transportation from Hawai'i to the continental United States can cost between $42,000 and $112,000.

[1] *See, e.g.*, *Schneberger v. Air Evac EMS, Inc.*, 2017 U.S. Dist. LEXIS 36701 (explaining that courts have all but uniformly held that air ambulance providers are "air carriers" under the ADA); *EagleMed, LLC v. Wyoming*, 2016 U.S. Dist. LEXIS 185156; *Hiawatha Aviation of Rochester, Inc. v. Minnesota Dept. of Health*, 389 N.W. 2d 507 (Minn. 1986); *Med-Trans Corp. v. Benton*, 581 F. Supp. 2d 721 (E.D. N.C., West Div. 2008). Air ambulances are considered to be on-demand air carriers, along with air taxis and helicopter tour operators.

FAA Reauthorization Act of 2018

TO HELP ADDRESS ISSUES with the air ambulance industry, Congress introduced H.R. 302, known as the FAA Reauthorization Act of 2018. Title IV of the act, in part, seeks to establish an advisory committee for transparency to recommend rules requiring air ambulance operators to clearly disclose charges for air transportation services separately from charges for non-air transportation services within any invoice or bill.

The advisory committee includes:

(1) The Secretary of Transportation

(2) The Secretary of Health and Human Services

(3) One representative, to be appointed by the Secretary of Transportation, of each of the following:

- (A) Each relevant Federal agency, as determined by the Secretary of Transportation
- (B) State insurance regulators
- (C) Health insurance providers
- (D) Patient advocacy groups
- (E) Consumer advocacy groups
- (F) Physician specializing emergency, trauma, cardiac, or stroke

(4) Three representatives, to be appointed by the Secretary of Transportation, to represent the various segments of the air ambulance industry

(5) Additional three representatives not covered under paragraphs (1) through (4), as determined necessary and appropriate by the Secretary

On October 5, 2018, H.R. 302 was signed by the President and became Public Law No: 115-254.

Over the past decade, many states have reported issues with air ambulance providers that are not affiliated with a hospital and refuse to contract with an insurance carrier. Given the often urgent nature of the transports, patients typically have little to no choice over the service or provider. Consequently, patients could be billed for charges that have potentially devastating financial impacts. For example, we found that the cost for air ambulance transportation from Hawai‘i to the continental United States can cost between $42,000 and $112,000. Because of the potential financial impacts, this study focuses on medical transportation to the continental United States requiring air ambulance service; not on medical transportation via commercial airline, an alternative for those who do not need ambulance-grade medical equipment in-transit.

Recently, the Federal Government Accountability Office (GAO) was asked to review issues related to air ambulance operations and pricing. In its report dated July 2017, *Air Ambulance, Data Collection and Transparency Needed to Enhance DOT Oversight*, the GAO reported that industry-wide data was not readily available or had limitations, and concluded that an in-depth analysis of price factors was not possible at the time of their report. Subsequently, Congress introduced the FAA Reauthorization Act of 2018 to help address possible cost and pricing issues within the air ambulance industry.

The GAO study focused on helicopter medical air transportation services, the most common type of air ambulance service provided within the continental United States. Because of Hawai‘i’s remote location, however, helicopters are not a viable option; and only a small quantity of aircraft are capable of performing air ambulance missions between Hawai‘i and the continental United States.

Moreover, Hawai‘i’s remote location and relatively small population also make it difficult for physicians and medical teams to sufficiently maintain the necessary skills and physical resources to treat certain uncommon conditions or perform uncommon procedures. Consequently, Hawai‘i currently lacks many sub-specialty medical services that require expertise obtained in high-volume medical centers. For example, a local medical facility had what one insurer considered to be an excellent heart transplant program. However, due to the relatively small number of heart transplant patients in Hawai‘i, that medical facility could not justify the costs to sustain the program. One insurance provider reported that another medical facility has not been able to acquire a team of pediatric heart specialists that can perform the highly complex, intricate heart surgeries that are needed by some babies. Consequently, although many heart procedures can be performed

in Hawai‘i, patients that require highly intricate heart surgeries require treatment on the continental United States.

When an air ambulance is necessary to transport patients from Hawai‘i to the continental United States, the costs for such service can be significant. As noted earlier, the cost of such transportation from Hawai‘i to the West Coast can range between $42,000 and $112,000. While Medicaid currently covers the cost of transportation for Hawai‘i’s most needy families, those who are middle-income earners and working full-time have not always received coverage for the cost of transportation to the continental United States. Patients requiring air ambulance transportation to the continental United States without the benefit of health insurance coverage for such transportation often face limited financing options, which can delay transportation and possibly negatively impact the patient’s treatment.

To address this issue, the Legislature introduced House Bill No. 687 during the 2018 Regular Session (HB 687), which proposed requiring policies of accident and health or sickness insurance, and hospital and medical service plan contracts issued or renewed in this State after December 31, 2018, to provide coverage for the costs of medically necessary transportation from the Hawai‘i to the continental United States for *“qualifying patients”* for the purpose of obtaining treatment. *“Qualifying patient”* is defined in HB 687 as a patient who meets **all six** of the following criteria:

1. The patient displays a high risk of imminent death despite optimal available treatment in the State;
2. The patient has a diagnosis of a potentially reversible disease or is a potential candidate for a heart or lung, or both, transplant, destination ventricular assist device, or total artificial heart;
3. The medically necessary out-of-state treatment, as defined in Chapter 432E, Hawai‘i Revised Statutes (HRS), for the patient is not available in the State;
4. The patient shall not have any known absolute contraindications to the out-of-state treatment being sought;
5. The patient does not have end stage dementia, anoxic brain injury, terminal cancer, or a premorbid condition with a short-term expected survival; and
6. The patient is not being transported for the sole purpose of cancer treatment or bone marrow transplant.

Section 23-51, HRS, states “[b]efore any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies, can be considered, there shall be concurrent resolutions passed requesting the auditor to prepare and submit to the legislature a

report that assesses both the social and financial effects of the proposed mandated coverage." Moreover, Section 23-52, HRS, sets forth the minimum social and financial impacts to be assessed, to the extent that information is available.

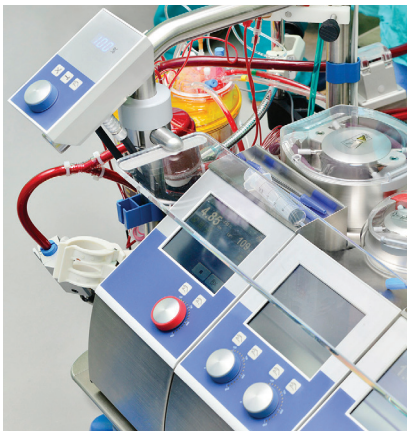
Pursuant to Section 23-51, HRS, the Legislature also adopted House Concurrent Resolution No. 52, House Draft 1, Senate Draft 1 during its 2018 Regular Session (HCR 52), requesting our office to assess both the social and financial effects of the mandated health insurance coverage as proposed under HB 687. In addition, HCR 52 requested our office to assess both the social and financial effects of the mandated health coverage both under the six criteria set forth under the definition of *"qualifying patient"* as defined in HB 687, as well as under a definition of *"qualifying patient"* that includes as an **additional seventh** criteria:

7. "A patient who is, among other qualifying criteria, on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies) in order to qualify for the mandated coverage proposed in the measure."

Exhibit 1
Mechanical Circulatory Support Devices

MECHANICAL CIRCULATORY SUPPORT (MCS) devices can be used as a short-term bridge-to-transplant or long-term destination therapy for patients who are not candidates for transplant or surgery.

Short-term MCS devices are used to support patients through a high-risk procedure, to recover, or to allow time to assess prognosis and guide definitive treatment; and can be implanted in a less invasive fashion. Two types of short-term MCS devices include the Intra-Aortic Balloon Pump (IABP) and Extra-Corporeal Membrane Oxygenation (ECMO).



An IABP allows blood to flow more easily into a patient's coronary arteries and helps the heart pump more blood with each contraction. Using a catheter, a balloon is inserted into a patient's aorta through a small cut inside of the upper leg. When the heart contracts, the balloon deflates, allowing the heart to pump more blood while using less energy. The IABP can last for days.

An ECMO provides full cardiopulmonary support for patients who have concomitant respiratory and cardiac failure. The ECMO machine is similar to the heart-lung bypass machine used in open-heart surgery. When patients are connected to an ECMO, blood flows through tubing to an artificial lung in the machine which adds oxygen and takes out carbon dioxide; then the blood is warmed to body temperature and pumped back into the body. ECMO requires a surgical procedure but is usually done in a patient's room. Patients can be supported on ECMO for days to weeks.

There are two basic types of long-term MCS devices, para-corporeal (including the percutaneous ventricular assist device) and totally implantable. Generally, ventricular assist devices (VADs) are mechanical pumps that help people with weakened hearts or heart failure by pumping blood from the lower chambers of the heart (the ventricles) to the rest of the body. This treatment may be used to allow the heart to recover or while waiting for other treatments, such as a heart transplant. Long-term MCS devices are durable and expensive devices that provide support for months to years and are intra-corporeal.

PHOTO: ISTOCK.COM

A discussion of extracorporeal membrane oxygenation and other mechanical circulatory support devices, as proposed by HCR 52, is provided in Exhibit 1 on page 4.

Study Objectives

Pursuant to HCR 52, the objectives of this study are to:

1. Assess the social and financial impacts of requiring each policy of accident and health or sickness insurance, except for policies that only provide coverage for specified diseases or other limited benefit coverage, and each hospital and medical service plan contract issued or renewed in Hawai‘i after December 31, 2018, to provide coverage for the costs of medically necessary transportation from Hawai‘i to the continental United States for *"qualifying patients,"* as defined in HB 687, for the purpose of obtaining treatment; and

2. Assess the social and financial impacts of amending *"qualifying patients,"* as defined in HB 687, to include, as an additional criteria for a *"qualifying patient,"* "A patient who is, among other qualifying criteria, on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intra-aortic balloon pump therapies) in order to qualify for the mandated coverage proposed in the measure."

Scope and Methodology

For this study, we reviewed scientific and medical literature regarding medical devices, such as extracorporeal membrane oxygenation or other mechanical circulatory support, including percutaneous ventricular assist devices and intra-aortic balloon pump therapies. We surveyed Hawai‘i health care insurers, Hawai‘i medical facilities, the administrator of the Hawai‘i Employer-Union Benefits Trust Fund (EUTF), and air ambulance service providers that have and continue to transport patients from Hawai‘i to the continental United States. Although most patients requiring treatment on the continental United States can be transported by commercial airlines, our study focused on air ambulance transports because of their greater potential financial impacts.

Hawai‘i health insurance respondents included nonprofit mutual benefit associations and groups that provide commercial employer-sponsored, small-group, and individual health plans; Medicare

Advantage plan coverage; and QUEST Integration Medicaid health maintenance organization plan coverage, including one insurance provider that exclusively provides government-sponsored managed care services, primarily through Medicaid, Medicare Advantage and Medicare Prescription Drug Plans. Hawai'i health insurer respondents accounted for 1,112,177 members that were enrolled in single or group health insurance plans at the end of 2017, representing nearly 78% of Hawai'i's estimated total resident population as of July 1, 2017.

Our surveys examined the potential social and financial effects of mandating health insurance coverage for medically necessary transportation from Hawai'i to the continental United States for treatment for *"qualifying patients"* as defined in HB 687. Pursuant to HCR 52, our survey also examined the potential social and financial effects of mandating health insurance coverage for medically necessary transportation from Hawai'i to the continental United States for treatment based on the assumption that HB 687's definition for *"qualifying patients"* was amended to include as **additional** criteria "a patient who is, among other qualifying criteria, on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies) in order to qualify for the mandated coverage proposed in the measure."

We conducted this study from August 2018 through October 2018, in accordance with Sections 23-51 and 23-52, HRS.

Overview of Medical Air Transportation from Hawai'i to the Continental United States

The list of medical conditions that require transportation from Hawai'i to the continental United States for treatment is potentially endless. However, several conditions cited by health insurers and medical providers as reasons a patient would be recommended for transportation from Hawai'i to the continental United States include, but are not limited to: end stage heart failure or arrhythmia needing heart transplant, including pediatric congenital heart disease; rare blood disorders with complications such as heart or respiratory failure; organ transplants, in part because Hawai'i's relatively small population also limits organ availability for transplantation; out-of-state physical rehabilitation services for certain quadriplegia patients; and any complex pediatric specialty service for a reversible condition that is not available in Hawaii.

Most patients can be transported via commercial airlines to the continental United States for treatment. However, when a physician

recommends a patient be provided medical transportation by air ambulance from Hawai‘i to the continental United States for treatment, generally, case managers will contact an air ambulance provider with a date, the location to which a patient is to be transported, and other relevant information to obtain a price for the requested medical transport. The case manager then provides the quote to the insurance provider and requests an authorization of payment for the recommended medical air transportation. Once the insurance provider authorizes payment for medical air transportation or other form of payment is secured, transportation of a patient from Hawai‘i to the continental United States typically starts within two hours, if an ambulance aircraft is available in Hawai‘i.

However, the presence of an ambulance aircraft is not always assured. Because of Hawai‘i’s remote location, only a small number of aircraft are capable of providing air ambulance missions between Hawai‘i and the continental United States. Hawai‘i’s remote location also makes it economically difficult for air ambulance service providers to maintain aircraft in Hawai‘i capable of providing service to the continental United States. One air ambulance service provider relocated back to the continental United States in 2012, due to an insufficient number of medical transports from Hawai‘i to the continental United States. Although another private air service provider has domiciled one of its aircrafts in Hawai‘i since 2016, that air carrier is under contract to transport scientists to Midway Island and Palmyra Atoll, which may impact the aircraft’s availability to transport patients. Other air ambulance service providers we interviewed estimated that conducting 10 to 15 transports a month from Hawai‘i to the continental United States would be needed to make it economically viable to maintain an aircraft and crew in Hawai‘i.

When the single aircraft in Hawai‘i capable of providing air ambulance services to the continental United States is not available, air ambulance service providers can start repositioning an available aircraft and crew located on the continental United States to Hawai‘i within two hours of payment being secured, and transportation of the patient from Hawai‘i to the continental United States usually starting within 24 hours.

Cost of Air Ambulance Transportation from Hawai‘i to the Continental United States

Air ambulance providers estimate costs to transport a patient from Hawai‘i to the continental United States generally range between $42,000 to $112,000. The cost of the air ambulance service includes any needed positioning of the aircraft to the patient’s location, transportation of the patient to the accepting medical center for treatment, all necessary air staff including pilot and a team of two or three medically trained

Delays affect availability, cost

AIR AMBULANCE SERVICES providers reported occasional delays between the time they are initially contacted by a case manager and when transportation of a patient begins. Most delays are usually only a day or two and attributed to a lack of available beds at the accepting medical facility. A patient’s condition may also deteriorate, delaying transportation until the patient’s condition can be stabilized and the patient can be safely transported to the continental United States. However, for non-emergency transportations that are medically necessary, air ambulance providers have reported experiencing delays of over a week, and as long as a month, due to negotiations between the case manager and the health insurance provider.

Delays make it difficult for air ambulance providers to provide reliable price quotes due to the difficulty in predicting wind conditions a week or more in advance, and changes in fuel prices.

Ten Essential Health Benefits

THE AFFORDABLE CARE ACT requires non-grandfathered health plans in the individual and small group markets to cover essential health benefits (EHB), which include items and services in the following ten benefits categories:

1. ambulatory patient services;
2. emergency services;
3. hospitalization;
4. maternity and newborn care;
5. mental health and substance use disorder services, including behavioral health treatment;
6. prescription drugs;
7. rehabilitative and habilitative services and devices;
8. laboratory services;
9. preventive and wellness services and chronic disease management; and
10. pediatric services, including oral and vision care.

professionals employed by the air ambulance service provider, and the cost to return the aircraft to its base. Patients that require additional care, for example neonatal patients, or patients with mechanical circulatory support devices or other special equipment, are accompanied by a hospital technician or other specialist. Additional costs for any required hospital equipment or staff may be charged directly by the hospital to the patient or insurance provider, and includes the costs to bring hospital equipment and staff back to Hawai'i.

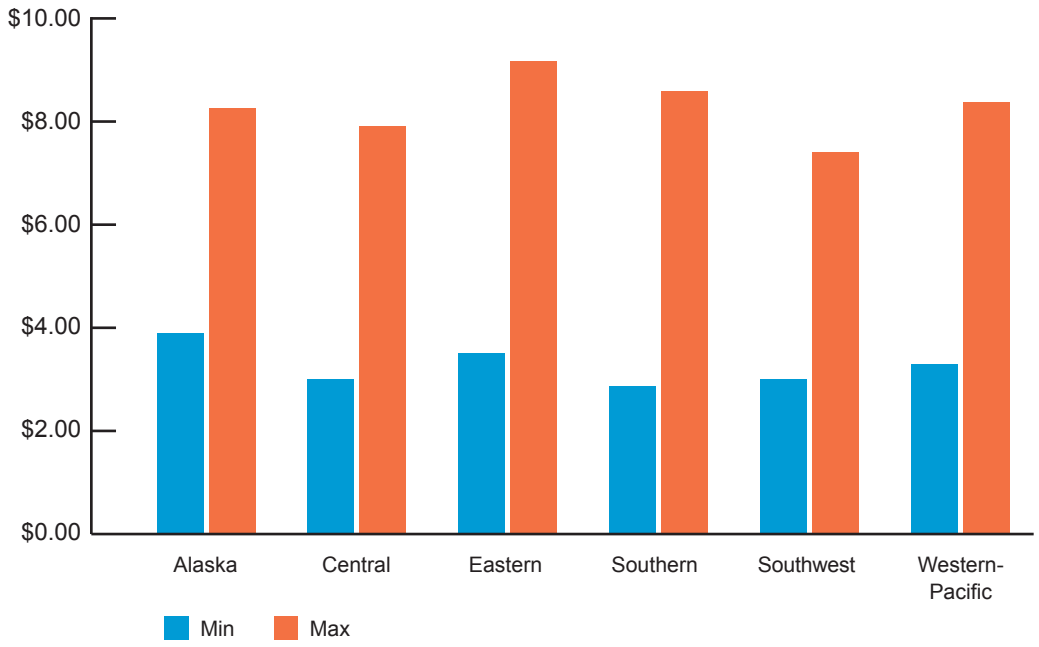
Short-Term Pricing Influences

Although transportation of patients from Hawai'i to the continental United States might generally range between $42,000 and $112,000, those prices can fluctuate based on the availability of aircraft, anticipated weather conditions, and the price of fuel.

The availability of aircraft, including the type and location of the aircraft available, will impact the cost to transport a patient to the continental United States. For example, air ambulance service providers estimated it would cost about $42,000 to transport a patient to the United States using a Hawker aircraft domiciled on the West Coast. Similar transports using a Learjet Model 36 located in Oregon, or a Challenger aircraft located in Alabama, were estimated to cost $50,000 and $112,000, respectively. Because of the often urgent nature of medical air transportation, patients are often unable to wait for a smaller and more economical aircraft to become available, and sometimes have no choice but to use a more costly aircraft that is available at the time.

Wind conditions and fuel prices anticipated at the time a patient is scheduled to be transported from Hawai'i to the continental United States are reportedly the most significant short-term pricing influences for air ambulance service from Hawai'i to the continental United States. Wind conditions not only impact fuel efficiency, but also the aircraft performance and total mileage flown. For example, when transporting a patient from Hawai'i to California, unfavorable wind conditions may require an air ambulance to first fly north to Alaska before flying south to California, increasing both the distance flown and amount of fuel needed to complete the transport. Fuel prices are subject to market fluctuations as shown on Exhibit 2 on the following page.

Exhibit 2
Reported Jet A Fuel Prices per Gallon by Region
(October 30, 2018 to November 21, 2018)



Source: airnav.com

Current State of Insurance Coverage for Medical Air Transportation from Hawai‘i to the Continental United States

In 2010, the Patient Protection and Affordable Care Act, also known as “Obamacare” (“ACA”), became law. The main purpose of the ACA is to decrease America’s uninsured population by increasing access to affordable health insurance. The ACA, in part, establishes Essential Health Benefits (EHB) which are required to be covered by all qualified health insurance plans and requires each state to establish a Health Benefit Exchange to make available a qualified health plan, which may require benefits other than the specified EHBs.

Generally, ambulance services fall under EHB’s Emergency Services category, but may not include interstate transportation. For Hawai‘i qualified health plans, covered ambulance services are limited to ground and intra-island or inter-island air ambulance services to the nearest, adequate hospital to treat an illness or injury.

Section 432E-1.4, Hawai'i Revised Statutes: Who decides "medical necessity" for insurance coverage purposes

PURSUANT TO Section 432E-1.4(a), HRS, a health intervention shall be covered if it is an otherwise covered category of service, not specifically excluded, recommended by the treating licensed health care providers, and determined by the health plan's medical director to be medically necessary. However, a health intervention is considered medically necessary only if it is recommended by the treating physician or treated licensed health care provider, and is approved by the health plan's medical director or physician designee. Moreover, pursuant to Section 432E-1.4(c), HRS, when the treating licensed health care provider and the health plan's medical director (or physician designee) do not agree on whether a health intervention is medically necessary, a reviewing body shall give consideration to, but not be bound by, the recommendations of both the treating licensed health care provider and the health plan's medical director.

Notwithstanding the above, we found that government-sponsored managed care services, primarily through Medicaid, generally provide full coverage for medically necessary transportation to the continental United States for treatment. Moreover, some health insurance provider respondents reported that, pursuant to Section 432E-1.4, HRS, insurance coverage for transportation from Hawai'i to the continental United States is required when it is a "medical necessity." However, the "medical necessity" of a treatment of service can be debatable.

Statistically, we found that 1,073 members, or less than 0.1 percent of the total 1,112,177 members represented by health insurance respondents, were recommended for transportation to the continental United States for treatment by a physician in 2017.[2] Of the 1,073 members recommended for transportation to the continental United States for treatment in 2017, health insurance plans covered 100 percent of transportation costs for 1,054 members, while transportation costs for 13 members were partially covered. For the remaining 6 patients who were recommended for transportation to the continental United States for treatment in 2017, the cost for medical transportation was not covered by insurance, representing 0.6 percent of the members who were recommended for transportation to the continental United States for treatment. We were not given detailed information as to how many of the patients were recommended for air ambulance, as opposed to commercial air transportation. Moreover, it was reported that, for the members whose transportation costs were not covered by insurance, coverage was denied because the provider determined that the recommended transportation was not "medically necessary." However, specific details as to the rationale behind those conclusions were not provided by the insurance provider.

Social Impacts

A. The extent to which the treatment or service is generally utilized by a significant portion of the population:

Health insurance provider respondents that provide commercial group and individual health plans all reported that medically necessary air transportation to the continental United States for treatment is not generally utilized. In total, less than 0.1 percent of all health insurance respondent members were recommended

[2] Of the 1,073 members who were recommended for transportation to the continental United States for treatment in 2017, 1,025 members, or 95.5 percent of the total, were reported by a single insurance provider that exclusively provides government-sponsored managed care services, primarily through Medicaid, Medicare Advantage and Medicare Prescription Drug Plans (PDP). Although all transportation costs to the continental United States were covered by Medicaid or Medicare Advantage, we confirmed that most of the members were transported by commercial airlines.

by their health care providers for medical transportation to the continental United States for treatment in 2017, which included medical transportation via both commercial airlines and private air ambulance service.

Insurers appeared to agree that the definition of *"qualifying patient"* under the proposed bill is narrower than the current state of coverage. It was generally agreed by the insurers responding to our survey that the *"qualifying patient"* criteria as defined in HB 687 will **reduce** the number of conditions for which transportation to the continental United States would be covered by insurance. However, the extent to which HB 687 might impact the use of medically necessary transportation to the continental United States for treatment is not clear. For example, one medical facility reported that **any** complex pediatric specialty service for a reversible conditions that is not available in Hawai‘i would likely qualify for coverage under the current transportation authorization process, compared to expecting that **only a very few** specialized pediatric procedures may qualify for an insurance company's transportation authorization process under HB 687's definition of *"qualifying patient."* However, that same medical facility does not expect a change in the volume of medical transportation to the continental United States for its patients based on HB 687, as currently written.

Should the definition of *"qualifying patient"* in HB 687 be amended to include a patient who is, in addition to meeting other qualifying criteria, "on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies)," the extent to which medical transportation to the continental United States for treatment is utilized and covered by insurance is expected to **decrease**, according to survey respondents. For example, one medical facility reported that of the 85 transports of their patients conducted between 2015 and 2017, only two required ECMO support during transportation.

B. The extent to which such insurance coverage is already generally available:

Three of the five health insurance respondents indicated that insurance coverage is already generally available for medically necessary transportation to the continental United States, while one health insurance respondent indicated such insurance coverage is somewhat available, and one health insurance respondent indicated such insurance coverage is not generally available. It is noted, however, that the two health insurance

respondents that reported health insurance coverage was either somewhat or not generally available were the two largest health insurance providers in the State, representing 68 percent of Hawai'i's estimated total population as of July 2017. Moreover, the health insurance respondent that reported that health insurance coverage for medically necessary transportation to the continental United States for treatment was not generally available, also reported that it has been covering the cost of medically necessary transportation on a case-by-case basis for commercial members where the respondent is the member's primary insurance, and medical transportation costs for all six of their members that were recommended for medically necessary transportation to the continental United States for treatment in 2016 and 2017 were fully covered by insurance. We also found that all patients recommended for transportation to the continental United States in 2016 (five patients) and 2017 (six patients), for which transportation was deemed **not** to be covered by insurance, were members of the same health insurance provider. Again, we were not given details as to the medical condition of these patients, nor the reasoning behind the health insurance provider's determination that medical transportation to the continental United States was "medically unnecessary."

Statistically, health insurance providers reported that when a patient was recommended for medical transportation to the continental United States for treatment in 2017, health insurance covered 100 percent of transportation costs 98.2 percent of the time, and 85 percent of transportation costs 1.2 percent of the time. When recommended, transportation to the continental United States for treatment was not covered by insurance 0.6 percent of the time. However, we were not given a breakdown as to commercial versus air ambulance services.

C. If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment:

When medically necessary transportation to the continental United States is recommended, it is often because Hawai'i's remote location and relatively small population contribute to a lack of sub-specialty services or alternative treatments available in Hawai'i. Consequently, in the cases where a patient's insurance did not cover transportation to the continental United States for treatment, and if the patient's family did not have the financial ability to pay for the needed transportation, treatment was either delayed or not sought.

D. If coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment:

The health insurance provider that responded that coverage for medically necessary transportation to the continental United States for treatment was not available, indicated that lack of coverage did not result in any unreasonable financial hardship because they have already been covering the cost of medically necessary transportation on a case-by-case basis for commercial members where the respondent insurance company was the patient's primary insurance; and transportation services for Medicare and Medicaid plans are already covered for medically necessary transportation from Hawai'i to the continental United States. Moreover, for the 11 total cases in 2016 and 2017, where a patient's insurance did not cover medical transportation to the continental United States for treatment, the health insurance provider respondent reportedly did not have any data regarding financial hardship.

Notwithstanding the above, although most patients requiring transportation to the continental United States for treatment can be transported by commercial airlines, the financial impacts are potentially significant for those that require transportation via air ambulance service transportation for such service, as air ambulance service providers generally estimate a medical transport to the west coast of the continental United States currently costs between $42,000 and $112,000.

E. The level of public demand for the treatment or service:

All but one health insurance respondent reported there was little public demand for medically necessary air transportation to the continental United States for treatment. In total, and without considering the definitions of *"qualifying patient"* contained in HB 687 and HCR 52, of those insurance providers reporting that there was little public demand in 2017, only 48 of their nearly 1.07 million members were recommended for medically necessary transportation to the continental United States for treatment.

However, one insurance provider that focuses exclusively on providing government-sponsored managed care services, primarily through Medicaid, Medicare Advantage and Medicare Prescription Drug Plans, reported that out of its 42,655 members in 2017, 1,025 members were recommended for medically necessary transportation to the continental United States for treatment, and all transportation costs were covered by the

patients' insurance. Accordingly, that insurance provider was the only respondent that indicated there was a significant demand for medically necessary transportation to the continental United States for treatment. It is noted, however, that of the insurance provider's 1,025 members that were transported to the continental United States in 2017, most were transported by commercial airlines and not by air ambulance service.

F. The level of public demand for individual or group insurance coverage of the treatment or service:

When considering the level of public demand for individual or group insurance coverage for medically necessary transportation to the continental United States for treatment under the two definitions of *"qualifying patient,"* as currently defined pursuant to HB 687 and as amended pursuant to HCR 52, all health insurance providers responded that there was little or no public demand. Justification for one health insurance provider's response was that coverage for medically necessary transportation to the continental United States is not a requested benefit when prospective employers or individuals are reviewing plans prior to purchase. Other insurers based their responses on the low number of cases that required medically necessary transportation to the continental United States for treatment. Moreover, one health insurance provider considered the definitions for "*qualifying patient"* were too restrictive, as it includes components of Section 432E-1.4, HRS, but imposes additional criteria beyond "medical necessity," creating additional restrictions for members.

G. The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts:

Regardless of the two definitions of *"qualifying patient,"* pursuant to HB 687 and as suggested in HCR 52, health insurance provider respondents were nearly unanimously in their belief that there would be no interest in negotiating privately for inclusion of medically necessary transportation to the continental United States for treatment. One health insurance respondent that provides commercial employer-sponsored, small-group, and individual health plans, justified this response by stating that inclusion of medically necessary transportation to the continental United States has not been a requested benefit; that said, coverage was already included in two insurer's plans, including an insurer servicing employer groups with collective bargaining agreements; and because both definitions were more restrictive than Section 432E-1.4, HRS.

Moreover, the EUTF, which is the administrator for the health plans for State and county employees, retirees, and their dependents, reported that the EUTF Board of Trustees would negotiate directly with HMSA and Kaiser Permanente as to the amount of premium increases related to HB 687 based on either definition of *"qualifying patient."*

H. The impact of providing coverage for the treatment or service (such as morbidity, mortality, quality of care, change in practice patterns, provider competition, or related items):

There was no clear consensus by health insurance respondents on the impacts (such as morbidity, mortality, quality of care, change in practice patterns, provider competition, or related items) of providing coverage for medically necessary transportation to the continental United States for treatment, based on HB 687's current definition of *"qualifying patient"* or on the assumption that the definition of *"qualifying patient"* were amended as contemplated in HCR 52. Under HB 687's current definition of *"qualifying patient,"* however, one health insurance respondent also expressed a concern the legislation could drive inappropriate demand for services that may be duplicative, may not be medically advisable, or not may not be performed as well as in Hawai'i, which then could lead to higher morbidity and mortality and lower quality of care, which then may lead to additional health care costs. Moreover, one medical facility foresaw an issue with screening patients in a timely manner if insurance coverage for medically necessary transportation to the continental United States for treatment were mandated pursuant to HB 687, which could negatively impact morbidity, mortality, quality of care, and a change in practice patterns due to the time sensitivity issues.

If the definition of *"qualifying patient"* is amended to include the additional criteria "[a] patient who is, among other qualifying criteria, on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies) to qualify for the mandated coverage proposed in the measure," a patient's treatment or service may also be negatively impacted. As an example, a medical facility reported that when transportation of a patient to the continental United States is necessary, its goal is to move patients while cardiac lesions are stable to ensure the very best outcome, and not wait until the patient requires ECMO support.

I. The impact of any other indirect costs upon the costs and benefits of coverage as may be directed by the Legislature or deemed necessary by the Auditor in order to carry out the intent of this section:

There was no clear consensus on the impact of any other indirect costs upon the costs and benefits of coverage, regardless of the two definitions of *"qualifying patient,"* pursuant to HB 687 and as suggested in HCR 52, one insurer stating that in both scenarios, they were uncertain of any indirect costs that would impact the costs or coverage benefits if HB 687 as currently written were enacted.

Financial Impacts

A. The extent to which insurance coverage of the kind proposed would increase or decrease the cost of the treatment or service:

Most respondents anticipated that mandating health insurance coverage for medically necessary transportation to the continental United States for treatment, based on HB 687's current definition of *"qualifying patient,"* would result in either no change or a small increase in transportation costs. One of the health insurance respondents that anticipated no change in cost explained that they believe they are already required to provide medically necessary transportation pursuant to Section 432E-1.4, HRS. Moreover, one medical facility respondent commented that payers currently cover pediatric transports by benefit exception, which is a lengthy process and often delays time-sensitive treatment, while another medical facility respondent commented that certain health insurance providers currently cover medically necessary transportation to the continental United States for treatment. Only one health insurance respondent anticipated that there would be a moderate increase in the cost of the treatment, however, no justification was provided for their response.

Based on the assumption that HB 687's definition of *"qualifying patient"* is amended to include the additional criteria as contemplated in HCR 52, one medical facility anticipated a moderate increase in transportation costs attributed to additional specialists, equipment, and potentially larger aircraft that may be required for transporting patients on medically necessary ECMO or other mechanical circulatory support devices. All insurance company respondents, however, anticipated no change or a low increase in the transportation costs.

B. The extent to which the proposed coverage might increase the use of the treatment or service:

Based on the HB 687's current definition of *"qualifying patient,"* all respondents but one anticipated that mandating health insurance for medically necessary transportation to the continental United States for treatment would not increase the use of such transportation services because health insurance coverage is already provided to all members, or on a case-by-case basis for commercial members where the health insurance respondent is the patient's primary insurance. Although the one health insurance provider indicating a possible moderate increase in usage provided no explanation of their response, we note that this insurance provider accounted for all 11 patients in 2016 and 2017, for which recommended medical transportation from Hawai'i to the continental United States was not covered by insurance.

Similarly, if the definition of *"qualifying patient"* in HB 687 were amended as contemplated in HCR 52, all but one respondent indicated they anticipated no change in the use of medically necessary transportation to the continental United States for treatment, again, because health insurance was already provided to all members, or on a case-by-case basis for certain commercial members. The one respondent that anticipates a significant decrease in medically necessary transportation under this scenario was a medical facility that indicated only a limited population of their patients would meet the additional criteria contemplated in HCR 52. For example, the medical facility reported that of their 85 patients transported from Hawai'i to the continental United States between 2015 and 2017, only two patients required ECMO support during medical transportation.

C. The extent to which the mandated treatment or service might serve as an alternative for more expensive treatment or service:

The two largest insurance companies in the State indicated that it would be somewhat unlikely for medically necessary air transportation to the continental United States for treatment to serve as an alternative for more expensive treatment or service. The largest health insurance provider in the State indicated the criteria included in HB 687 for a *"qualifying patient"* would prevent the identified scenario from happening. The second largest health insurance provider indicated that medical facilities would only refer and transfer patients to the continental United States for medically necessary services for cases that are not available in Hawaii or those that should be appropriately managed in the continental United States. Two other health

Affordable Care

THE AFFORDABLE CARE ACT requires a state to make payments to or on behalf on an individual to defray the costs of any benefits required in addition to the specified essential health benefits. Medically necessary transportation from Hawai'i to the continental United States is not covered under Hawai'i's ACA EHB benchmark plan, so mandating health insurance coverage for such a benefit would be considered an additional mandated benefit, which would require the State to defray the costs.

insurance providers and one medical facility indicated that it would be highly unlikely for medically necessary air transportation to the continental United States for treatment to serve as an alternative for more expensive treatment or service.

If mandatory health insurance for medically necessary transportation to the continental United States for treatment were required based on the assumption that HB 687's definition of *"qualifying patients"* was amended to include an additional criteria requiring "[a] patient who is, among other qualifying criteria, on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies) in order to qualify for the mandated coverage proposed in the measure," three health insurance providers and one medical facility considered it highly unlikely that medically necessary air transportation to the continental United States for treatment would serve as an alternative for more expensive treatment or service. In addition to the reasons above, more than one respondent explained that patients being transported on ECMO are being transported to the continental United States because they require treatment not available in Hawai'i. Only one health insurance provider still considers it highly unlikely that medically necessary air transportation to the continental United States for treatment would serve as an alternative for more expensive treatment or service if HB 687's definition of *"qualifying patient"* were amended as considered in HCR 52.

D. The extent to which insurance coverage of the health care service or provider can be reasonably expected to increase or decrease the insurance premium and administrative expenses of policyholders:

Two health insurance respondents expected no increase in insurance premiums and administrative expenses of policyholders under HB 687's current definition of *"qualifying patient,"* because medically necessary transportation to the continental United States is already covered under the plans they provide. However, the two largest health insurance providers in the State expected a moderate to low increase in insurance premiums and administrative expenses for policy holders. Similarly, respondents generally expected no increase to a low increase in insurance premiums and administrative expenses of policyholders if HB 687's definition of *"qualifying patient"* were amended as contemplated in HCR 52.

We note that, under both scenarios, no insurance provider offered any projections on the anticipated impacts in terms of dollar

amounts on insurance premiums and administrative expenses, if any. However, all health insurance providers agree that mandating health insurance coverage for medically necessary transportation to the continental United States would not fall under Hawai‘i's ACA Essential Health Benefits Benchmark Plan and would be considered an additional mandated benefit that would require the State to defray the cost.

E. The impact of this coverage on the total cost of health care.

Under both definitions of *"qualifying patient,"* as currently defined in HB 687, and if amended to include the additional criteria of requiring "[a] patient who is, among other qualifying criteria, on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies) in order to qualify for the mandated coverage proposed in the measure," most health insurance respondents anticipated mandatory health insurance for medically necessary transportation to the continental United States will increase the total cost of health care to some extent. Only one health insurance respondent believed the proposed mandated health care insurance coverage would not impact the total cost of health care under either scenario because they already provide coverage for medically necessary transportation to the continental United States.

Again, however, health insurance respondents could not, or did not, provide dollar amount projections as to the extent of the anticipated impacts, if any.

Assessment of Additional Criteria for the Definition of *"Qualifying Patient"* Set Forth in HCR 52

HCR 52 asked our office to assess the effects of amending the definition of *"qualifying patient,"* contained in HB 687, to include an additional provision that requires a patient, to qualify for mandated coverage:

> *be on medically-necessary extracorporeal membrane oxygenation or mechanical circulatory support (including percutaneous ventricular assist devices and intraaortic balloon pump therapies)*

To the extent that we found a difference that the amendment had on the projected impact of the proposed coverage, we included this in our discussion above.

Conclusion

Hawai'i's geographic isolation and relatively small population make it difficult for Hawai'i physicians and medical teams to sufficiently maintain their skills and physical resources to treat certain uncommon conditions or perform uncommon procedures. Consequently, Hawai'i currently lacks many sub-specialty medical services requiring expertise that is obtained in high volume medical centers, and patients requiring such procedures must sometimes seek treatment at facilities on the continental United States.

When transportation from Hawai'i to the continental United States for treatment is required, in most cases a patient can be transported via commercial airlines. We found that the number of patients that seek coverage for air ambulance services to the continental United States is very small. The two largest health insurance providers in the State reported a total of 28 members that were recommended for medical transportation to the continental United States for treatment in 2016 and 2017. Insurance coverage was not provided in 11 cases, all of which involved members from a single insurance provider. Several other health insurance providers reported that their policies currently cover the cost for those transportation services pursuant to Section 432E-1.4(a), HRS, titled *Medical Necessity*. The determination of "medical necessity," however, is left to the health insurance provider. Because we were not given details as to the circumstances underlying the determinations that requested transportation was "medically unnecessary" and the denial of coverage for the above-mentioned 11 patients, we are unable to determine whether or not any of those cases involved *"qualifying patients"* under either HB 687 or HCR 52.

Notwithstanding the above, we acknowledge that when air ambulance service from Hawai'i to the continental United States is not covered by a patient's insurance, the financial burden on the patient and their family can be devastating. Given the huge cost for an air ambulance to the continental United States – estimates range from $42,000 to $112,000 for a single trip – few patients can afford to pay without assistance.

We also found that, if HB 687 were passed based on its current definition of *"qualifying patient,"* survey respondents anticipated that the number of conditions for which mandated health insurance would cover medical transportation to the continental United States for treatment would be **reduced** because of the criteria imposed, which currently does not exist under Section 432E-1.4, HRS. Moreover, air transportation to the continental United States for patients that meet either definition of *"qualifying patient,"* as proposed in HB 687 or HCR 52, may already qualify for insurance coverage as a medically necessary health intervention under Section 432E-1.4, HRS.

In addition, if the definition of *"qualifying patient"* as contemplated in HCR 52 is adopted, at least one medical facility expects the number of patient transports to the continental United States for treatment qualifying for such health insurance coverage to decrease, and delaying transportation of a patient until the patient requires ECMO would be counterproductive to the medical facility's goal to move patients before their condition deteriorates, to ensure the best potential outcome. Therefore, based on the insurers' and medical facilities' responses, it appears that the proposed legislation, which sets forth specific definitions for a *"qualifying patient"* under the mandatory coverage may lead to **fewer** patients being approved for coverage, which would be contrary to the intent of the bill.

Finally, because the proposed mandated health insurance coverage for medically necessary transportation to the continental United States for treatment is not covered as an "essential health benefit" under the ACA, the State would be liable to defray the costs for any mandated health insurance coverage for medically necessary transportation to the continental United State for treatment, regardless of the *"qualifying patient"* definition adopted. However, the actual financial impacts to the proposed mandatory health insurance coverage for medically necessary transportation to the continental United States is unknown, regardless of the two definitions of *"qualifying patient"* under consideration.