Study of the Fiscal Impact of Providing Certain Benefits to Reciprocal Beneficiaries

A Report to the Governor and the Legislature of the State of Hawaii

Report No. 99-17
April 1999

THE AUDITOR
STATE OF HAWAII

The Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.

2. *Management audits,* which are also referred to as *performance audits,* examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits,* when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits,* when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.

3. *Sunset evaluations* evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.

4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.

5. *Health insurance analyses* examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.

6. *Analyses of proposed special funds* and existing *trust and revolving funds* determine if proposals to establish these funds and existing funds meet legislative criteria.

7. *Procurement compliance audits* and other *procurement-related monitoring* assist the Legislature in overseeing government procurement practices.

8. *Fiscal accountability reports* analyze expenditures by the state Department of Education in various areas.

9. *Special studies* respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.

THE AUDITOR
STATE OF HAWAII

Kekuanao'a Building
465 South King Street, Room 500
Honolulu, Hawaii 96813

OVERVIEW

Study of the Fiscal Impact of Providing Certain Benefits to Reciprocal Beneficiaries

Report No. 99-17, April 1999

Summary

Act 383, Session Laws of Hawaii 1997 (the reciprocal beneficiaries law) made available to people who cannot marry each other, some benefits that previously were available only to married couples. Many types of "couples" may declare a reciprocal beneficiary relationship. Examples are homosexual partners, or a widow and her son, or two brothers.

Pursuant to a directive in Section 73 of Act 383, we studied the fiscal impact of providing reciprocal benefits under the provisions of the act related to workers' compensation, the Hawaii Public Employees Health Fund, the Employees' Retirement System of the State of Hawaii, and prepaid health insurance.

We found that reciprocal beneficiaries make up a very small portion of the state's population. The Department of Health reported 435 reciprocal beneficiary relationships on file as of October 1998. With the numbers so small, we were not surprised to find that the reciprocal beneficiaries law has had little fiscal impact in the areas of workers' compensation, public employee health and retirement benefits, and prepaid health insurance. The limited fiscal impact is also due in part to the limited benefits granted by the law. Our findings include the impact on state government, county government, the private sector, and consumers in Hawaii.

The reciprocal beneficiaries law amended the workers' compensation law to include reciprocal beneficiaries as possible recipients of an employee's death benefits. But the Department of Labor and Industrial Relations was aware of no cases involving reciprocal beneficiaries as the payment recipient.

The reciprocal beneficiaries law also amended the law governing the Hawaii Public Employees Health Fund to establish a reciprocal beneficiary family coverage health benefits plan for public employees and retirees. But the state and county governments contributed less than $56,000 during FY1997-98 as their share of reciprocal beneficiary family coverage premiums under the health fund. The actual additional premium cost of the coverage to the State and counties may have been only about $12,000 in that year (compared with government's total contribution of more than $262 million as its share of health insurance costs for non-reciprocal beneficiary employees). We did find that special costs were incurred by some public employees who took advantage of the new reciprocal beneficiaries coverage.

In addition, the reciprocal beneficiaries law amended the law governing the Employees' Retirement System of the State of Hawaii to include reciprocal beneficiaries as eligible recipients of benefit payments upon an employee's death. However, officials of the retirement system informed us that a reciprocal beneficiary has been named as a death benefit recipient in only one case.

The reciprocal beneficiaries law did not amend the prepaid health care law but did amend the state Insurance Code in ways that could affect organizations providing prepaid health care coverage. However, the state attorney general has concluded that applicable provisions apply only to insurance companies and not to employers, health maintenance organizations, or mutual benefit societies. Privately run health care organizations see little impact from the reciprocal beneficiaries law.

We also concluded that the law's fiscal impact could change if more people become reciprocal beneficiaries or if the law is amended (or interpreted by a court) to require broader coverage. Finally, we noted that Section 2 of the law—which requires the Hawaii Public Employees Health Fund to establish a reciprocal beneficiary family coverage plan for any employee who is a reciprocal beneficiary and elects such a plan—will be repealed on June 30, 1999 unless the requirement is extended through legislation.

Recommendations and Response

We made no recommendations.

The Hawaii Public Employees Health Fund commented that lack of available reciprocal beneficiary information resulted in low enrollment in the health fund's reciprocal beneficiary health benefit plans. The fund believes that if the Legislature extends the law and modifications are made to collective bargaining agreements, more employees and retirees will enroll their reciprocal beneficiaries.

Marion M. Higa
State Auditor
State of Hawaii

Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813
(808) 587-0800
FAX (808) 587-0830

Study of the Fiscal Impact of Providing Certain Benefits to Reciprocal Beneficiaries

A Report to the
Governor
and the
Legislature of
the State of
Hawaii

Submitted by

THE AUDITOR
STATE OF HAWAII

Report No. 99-17
April 1999

Foreword

This study of the fiscal impact of providing certain benefits to reciprocal beneficiaries was performed in response to a directive in Section 73 of Act 383, Session Laws of Hawaii 1997.

We wish to express our appreciation for the cooperation of the Department of Labor and Industrial Relations, the Hawaii Public Employees Health Fund, the Employees' Retirement System of the State of Hawaii, the Department of Commerce and Consumer Affairs (including its Insurance Division), and others who assisted us during the course of the study.

Marion M. Higa
State Auditor

Table of Contents

Chapter 1 Introduction

Background on the Reciprocal Beneficiaries Law 1
Objectives of the Study 2
Scope and Methodology 3

Chapter 2 The Reciprocal Beneficiaries Law Has Had Little Fiscal Impact in the Benefit Areas That We Studied

Summary of Findings 5
The Law's Fiscal Impact Has Been Minimal under Workers' Compensation, Public Employees' Health and Retirement Benefits, and Prepaid Health Insurance 5
Conclusion 16

Responses of the Affected Agencies 21

Appendix

Appendix A Reciprocal Beneficiary Family Coverage Participation and Liabilities Under the Hawaii Public Employees Health Fund, FY1997-98 (Details) 19

Exhibits

Exhibit 2.1 Impact of the Reciprocal Beneficiaries Law (Act 383, SLH 1997) on Four Benefit Areas 6
Exhibit 2.2 Reciprocal Beneficiary Family Coverage Participation and Liabilities Under the Hawaii Public Employees Health Fund, FY1997-98 (Summary) 9
Exhibit 2.3 Selected Reciprocal Beneficiary and Non-Reciprocal Beneficiary Health Benefit Premiums and Active Employee Taxable Imputed Income Under Kaiser Permanente and HMSA 12

Chapter 1

Introduction

This study of the fiscal impact of providing certain benefits to reciprocal beneficiaries was prepared in response to a directive in Section 73 of Act 383, Session Laws of Hawaii (SLH) 1997.

Background on the Reciprocal Beneficiaries Law

Historically, married couples have obtained many benefits not available to persons in other close relationships. Amid public debate and controversy over the desirability of same-sex marriage, the State of Hawaii enacted a "reciprocal beneficiaries" law. Act 383 made available to people who cannot marry each other some benefits that previously were available only to married couples.

In passing this measure, the Legislature found that the people of Hawaii wished to "preserve the tradition of marriage as a unique social institution based on the committed union of one man and one woman." At the same time, the Legislature found that many people have significant personal, emotional, and economic relationships with another individual whom they cannot legally marry.

Act 383 permitted persons in such relationships to form a "reciprocal beneficiary relationship" for the purpose of obtaining some marriage-type benefits. Chapter 572C, Hawaii Revised Statutes (HRS), titled Reciprocal Beneficiaries, the core statute created by Act 383, requires only that each of the two persons in the relationship:

- Is at least 18 years old;
- Is not married or part of another reciprocal beneficiary relationship;
- Is legally prohibited from marrying the other person under Chapter 572, HRS (the marriage law);
- Has not consented to the reciprocal beneficiary relationship because of force, duress, or fraud; and
- Signs and files with the Department of Health a notarized declaration of the relationship (each of the two persons then receives a certificate of the relationship).

Under these criteria, many types of "couples" may declare a reciprocal beneficiary relationship. Some examples are homosexual partners; two friends of the same sex; a widow and her son; two brothers; a brother and sister; an uncle and niece; and an aunt and nephew. Other combinations are possible. Reciprocal beneficiaries do not have to live together or maintain Hawaii residency.

Many benefits made available

Act 383 also amended state law extensively to map out the many marriage-type rights and benefits now granted to reciprocal beneficiaries. Some areas covered by the law are:

- Workers' compensation
- Public employees health fund
- Public employees retirement
- Health insurance
- Life insurance
- Inheritance
- Wrongful death
- Hospital visitation
- Consent to postmortem examinations
- Loan eligibility
- Property rights
- Tort liability

Requirement for the study

Section 73 of Act 383 directed the State Auditor to "conduct a 'closed claim' study to assess the fiscal impacts of providing reciprocal benefits under workers' compensation, public health fund, public employees' retirement, and prepaid health insurance provisions." The Auditor is to include data collected from the appropriate state agencies, indicating for each benefit category the number of claims made and the total fiscal impact on the State.

Objectives of the Study

1. Describe the workers' compensation, public health fund, employees' retirement system, and prepaid health insurance provisions of Act 383.

2. Determine the fiscal impact of these provisions.

3. Make recommendations as appropriate.

Scope and Methodology

Our study examined Act 383, SLH 1997—the reciprocal beneficiaries law—particularly the provisions that authorize reciprocal beneficiary relationships and those related to workers' compensation, the Hawaii Public Employees Health Fund, the Employees' Retirement System of the State of Hawaii, and prepaid health insurance. We also studied formal opinions of the state attorney general that interpreted the law.

We focused on the fiscal impact of the relevant provisions of Act 383 from July 1, 1997, the law's effective date, to the time of our study. To the extent possible, we identified the impact on Hawaii state government, county government, the private sector, and consumers (including reciprocal beneficiaries).

We reviewed statutes, administrative rules, policies, procedures, and other documents related to benefits for reciprocal beneficiaries. We interviewed representatives of the Department of Labor and Industrial Relations (which administers the workers' compensation and prepaid health care laws), the Public Employees Health Fund, the Employees' Retirement System, and the Department of Commerce and Consumer Affairs (including its Insurance Division). We also spoke with representatives of health insurance providers in the private sector, including HMSA, Kaiser Permanente, and Kapi'olani HealthHawaii. We reviewed relevant files at the state agencies.

We did not perform a closed claims study. The reciprocal beneficiaries law was recently enacted, so little data on closed claims exists.

Other data pertinent to our study was also quite sparse because of the law's recent enactment. Representatives of the Department of Labor and Industrial Relations, Public Employees Health Fund, and Employees' Retirement System all pointed out that information in this area is limited. Only the health fund could provide us with statistics on the number of reciprocal beneficiaries affected and costs to the state and county governments.

Our work was performed from June 1998 through March 1999 in accordance with generally accepted government auditing standards.

Chapter 2

The Reciprocal Beneficiaries Law Has Had Little Fiscal Impact in the Benefit Areas That We Studied

Act 383, Session Laws of Hawaii 1997—the reciprocal beneficiaries law—directed us to "assess the fiscal impacts of providing reciprocal benefits under workers' compensation, public health fund, public employees' retirement, and prepaid health insurance provisions." In this chapter, we summarize these provisions and their fiscal impact.

Summary of Findings

The reciprocal beneficiaries law has had minimal fiscal impact in the areas of workers' compensation, the Hawaii Public Employees Health Fund, the Employees' Retirement System of the State of Hawaii, and prepaid health insurance. However, special costs were incurred by some public employees who took advantage of the new "reciprocal beneficiary family coverage health benefits plan" offered by the Hawaii Public Employees Health Fund.

The Law's Fiscal Impact Has Been Minimal under Workers' Compensation, Public Employees' Health and Retirement Benefits, and Prepaid Health Insurance

Reciprocal beneficiaries make up a very small portion of the state's population. The Department of Health reported 435 reciprocal beneficiary relationships on file as of October 1998. Because each relationship consists of two people, this represented a total of 870 individuals (a fraction of a percent of the state population of about 1.1 million).

With the numbers so small, we were not surprised to find that the reciprocal beneficiaries law has had minimal fiscal impact in the areas of workers' compensation, public employee health benefits, public employee retirement benefits, and prepaid health insurance. The limited fiscal impact is also due in part to the limited benefits granted by the law.

Exhibit 2.1 highlights the four benefit areas that we studied, the key amendments resulting from the reciprocal beneficiaries law, and the fiscal impact. The following narrative provides more detail on these matters. We will also describe some insurance premium and tax costs incurred by public employees who move from self-only health coverage to reciprocal beneficiary family coverage.

Exhibit 2.1
Impact of the Reciprocal Beneficiaries Law (Act 383, SLH 1997) on Four Benefit Areas

Benefit Area	Benefits	Changes Resulting From Act 383	Fiscal Impact
Workers' Compensation (Chapter 386, HRS)	Provides employer-paid insurance to protect workers against hardships caused by on-the-job illnesses and injuries.	Chapter 386 amended to include reciprocal beneficiaries as possible recipients of an employee's death benefits.	Minimal impact upon state and county governments, private sector, and consumers.
Public Employees Health Fund (Chapter 87, HRS)	Provides state and county public employees, retirees, and their dependents health and group life insurance benefits.	Chapter 87 amended to establish a reciprocal beneficiary family coverage health benefits plan for public employees and retirees.	Minimal impact upon state and county governments. State and counties paid $55,793 for reciprocal beneficiaries in FY1997-98. Costs of private health care coverage of non-reciprocal beneficiaries have not risen. Some public employee reciprocal beneficiaries will incur special costs for insurance coverage.
Public Employees' Retirement (Chapter 88, HRS)	Provides pension and retirement benefits for public employees of the State and counties.	Chapter 88 amended to include reciprocal beneficiaries as eligible recipients of benefit payments upon the employee's death.	Minimal impact on state and county governments. Act 383 simply adds another possible recipient of pension benefits. The private sector and consumers have also not been affected fiscally since the retirement system includes government employment only.
Prepaid Health Care (Chapter 393, HRS)	Requires employers to cover eligible employees under a qualified prepaid health insurance plan.	Act 383 does not amend Chapter 393. However, it does amend the state insurance code (Chapter 431, HRS) which could affect organizations providing prepaid health care coverage.	Minimal impact on state and county governments since Act 383 affects insurance carriers only and not employers. There has also been no impact on the private sector and consumers because there is no difference in the rate charged for reciprocal beneficiary family coverage.

Fiscal impact relating to workers' compensation

Chapter 386, Hawaii Revised Statutes (HRS), the workers' compensation law, establishes an employer-paid insurance program that protects workers from hardships caused by on-the-job injuries and illnesses. Workers' compensation replaces part of the employee's lost income and pays for medical care and rehabilitation costs. It also may compensate employees for disability or disfigurement and provide death benefits to spouses and other dependents. The program is administered by the Department of Labor and Industrial Relations.

The reciprocal beneficiaries law amended Chapter 386 to include reciprocal beneficiaries provisions. The amendments have probably not increased workers' compensation expenditures in situations where the injured or ill employee is still living. Expenditures for lost income, medical care, disability, or disfigurement during the employee's life are the same regardless of whether the employee is part of a reciprocal beneficiary relationship.

However, the reciprocal beneficiaries law could potentially increase workers' compensation expenditures related to death benefits. Prior to the law, only spouses or dependents could receive payments in the event of an employee's work-related death or if an employee who had been receiving disability payments died before all the payments were made. The new law added reciprocal beneficiaries to the pool eligible for these death-related payments.

Nevertheless, representatives of the Department of Labor and Industrial Relations informed us that the reciprocal beneficiaries law has had little fiscal impact on the workers' compensation system. As of December 1998, the department was not aware of any cases involving reciprocal beneficiaries as the payment recipient. Therefore, the department saw no need to maintain detailed data on reciprocal beneficiaries in the workers' compensation system.

In the area of workers' compensation, we concluded that the reciprocal beneficiaries law has had little impact on state government, county government, the private sector, or consumers.

Fiscal impact relating to the Hawaii Public Employees Health Fund

Under Chapter 87, HRS, the Hawaii Public Employees Health Fund (the health fund) provides state and county public employees, retirees, and their dependents with health and group life insurance benefits. A required long-term care benefits plan has not been established yet. The health fund is attached administratively to the Department of Budget and Finance and is governed by a Board of Trustees.

Section 2 of the reciprocal beneficiaries law required the health fund to establish a "reciprocal beneficiary family coverage health benefits plan" for an employee who is a reciprocal beneficiary and who elects such a plan. The law defined reciprocal beneficiary family coverage as coverage under a health benefits plan that insures an employee who is a reciprocal beneficiary, the other party to the employee's reciprocal beneficiary relationship, and any dependent-beneficiary of the employee, any unmarried child of the non-employee reciprocal beneficiary under age 19, or a surviving beneficiary of the employee. The Section 2 requirement will be repealed on June 30, 1999, unless extended by legislation. The reciprocal beneficiaries law also required the health fund to consider long-term care benefits for reciprocal beneficiaries.

The health fund informed us that the reciprocal beneficiaries law has had minimal impact on the fund. Based on health fund observations and our review of health fund files, we concluded that the health fund provisions of the law have had little impact on the state and county governments and the private sector.

According to the health fund, the state and county governments contributed a total of $55,793 during FY1997-98 as their share of reciprocal beneficiary family coverage premiums (for medical, drug, vision, and adult dental coverage) under the fund. This consisted of $30,197 for active employees and $25,596 for retirees. This was a very small portion of the state and county governments' total contribution of more than $262 million as their share of health insurance costs for non-reciprocal beneficiary employees.

The actual fiscal impact on the state and counties was probably even smaller because, according to the health fund, in FY1997-98 reciprocal beneficiary coverage required no **additional** employer contributions for active employees and only a little over $12,000 in **additional** contributions for retirees ("additional" meaning in excess of what the contributions would have been in the absence of the new law).

Exhibit 2.2 shows participation in, and liabilities for, reciprocal beneficiary family coverage under the health fund for FY1997-98.

For the current fiscal year (as of October 1998), the state and county governments' contribution for reciprocal beneficiary family coverage has totaled approximately $36,000.

One representative of the health fund has expressed some concern about retired state or county employees enrolling in the health fund as reciprocal beneficiaries. This is because retirees generally do not pay a portion of the health benefit premium (although under certain circumstances they do). When the retiree does not contribute to the premium, the employer (state or county government) pays the entire obligation. As of December 1998, there were 17 retirees enrolled in the health fund as reciprocal beneficiaries, so the cost issue does not appear to be a problem at this

Exhibit 2.2
Reciprocal Beneficiary Family Coverage Participation and Liabilities Under the Hawaii Public Employees Health Fund, FY1997-98 (Summary)

Public Employee Group	No. of Subscribers	No. of Dependents	Total Count	Employee Liability ($$)	Employer Liability ($$)	Total Liability ($$)
State of Hawaii Active Employees	73	94	167	32,593	24,566	57,159
State of Hawaii Retired Employees	20	23	43	0	23,572	23,572
County Active Employees	22	28	50	6,913	5,506	12,419
County Retired Employees	4	7	11	0	2,026	2,026
Board of Water Supply Active Employees	1	1	2	516	125	641
Board of Water Supply Retired Employees	0	0	0	0	0	0
Total Active Employees	96	123	219	40,022	30,197	70,219
Total Retired Employees	24	30	54	0	25,596	25,596

Source: Hawaii Public Employees Health Fund. We did not audit the figures provided by the fund. We rounded all dollar figures to the nearest dollar.

Note: See Appendix A for a more detailed table on which this summary table is based. Slight discrepancies between the two tables may exist due to rounding.

time. However, the health fund observed that a significant increase in the number of retired reciprocal beneficiaries could definitely impact the fund.

The provisions of the reciprocal beneficiaries law pertaining to the health fund have an indirect impact on privately operated health insurance providers. On the one hand, the state attorney general has opined that Section 4 of the law—requiring health insurance companies to offer reciprocal beneficiary family coverage to the extent that family coverage is available to non-reciprocal beneficiaries—does not apply to health maintenance organizations and mutual benefit societies. On the other hand, health maintenance organizations and mutual benefit societies in providing benefits for health fund members—specifically, Kaiser Permanente, HMSA, and Kapi'olani HealthHawaii—currently include health benefits to reciprocal beneficiaries. This is how the health fund meets the law's requirement that it offer reciprocal beneficiary coverage. However, our discussions with these providers indicated that the added reciprocal beneficiary family coverage has neither placed significant additional burdens on their organizations nor caused the price of coverage to rise.

We could not reach a definitive conclusion as to the fiscal impact of the health fund provisions of the reciprocal beneficiaries law on consumers (who include both reciprocal beneficiaries and others). These new provisions do not appear to have resulted in increased costs of health coverage for non-reciprocal beneficiaries. However, we discuss below certain financial implications for reciprocal beneficiaries who obtain family coverage health insurance through the health fund.

Premium costs are significantly higher for certain reciprocal beneficiaries

While the reciprocal beneficiaries law requires the health fund to offer reciprocal beneficiary family plan health coverage to interested state and county employees, the law does not specify what contribution the state or counties must make toward the cost of this coverage or what benefits must be included in the plan. We found that reciprocal beneficiaries incur special premium costs for their family plan coverage.

According to health fund documents, active state or county employees currently enrolled in "self only" (individual) coverage who add their reciprocal beneficiary, with or without children, must pay the difference (on an "after tax" basis) between the new premium for reciprocal beneficiary family coverage and the amount that would have been contributed by the State or county for self only coverage. Active state or county employees currently enrolled in family coverage who add their reciprocal beneficiary, with or without the reciprocal beneficiary's children, will not be required to pay an additional contribution toward the reciprocal beneficiary family plan. Retired state or county employees will not be required to pay any additional money towards the reciprocal beneficiary health plan premium regardless of whether the employee was in a self only or family health coverage plan.

We found that the health coverage premiums for active state or county employees who move from a self only plan to the reciprocal beneficiary family plan are significantly higher than premiums for an active employee who moves from a self only plan to a non-reciprocal beneficiary family plan when he or she adds a spouse or dependent. Two examples illustrate the difference in the cost of health coverage for reciprocal beneficiaries and non-reciprocal beneficiaries:

In Example No. 1, Tom is single, works for the State of Hawaii, and is enrolled in the single person health plan (#111) under Kaiser. The current total premium for his health insurance coverage is $150 per month, of which Tom is responsible for $69 and his employer (State of Hawaii) pays the difference of $81. Tom subsequently marries Jane and adds her to his insurance plan. As a result, Tom moves to the family plan (#112) under Kaiser. The new total premium is $449 per month of which Tom is responsible for $201 and the State pays the remaining $248. If Tom later has children, they can be added to his family plan at no additional charge.

In Example No. 2, John, like Tom, is single, works for the State of Hawaii, and is enrolled in the single person health plan (#111) under Kaiser. The total monthly premium for this coverage and the respective share of it contributed by John and the State are the same as in Tom's case. John subsequently enters into a reciprocal beneficiary relationship with his 32-year-old brother Jack and adds Jack to his insurance plan, moving to the reciprocal beneficiary family plan. The new total premium is the same as for Tom's family plan: $449 per month. However, John's share of the premium is $368 while the State pays only $81. John has moved from a single plan to the reciprocal beneficiary family plan, but the employer's share remains at the single person rate.

See Exhibit 2.3 for a comparison of selected health plan premiums for reciprocal beneficiaries and non-reciprocal beneficiaries.

While health fund officials would not fully disclose the reasons for charging reciprocal beneficiaries a higher amount for family coverage, they did note that they sought advice from the Department of the Attorney General on this matter. A legal interpretation released by that department to our office in December 1998 stated that the reciprocal beneficiaries law requires the establishment of a reciprocal beneficiary family coverage health plan but does not address employer contributions from the State or

Exhibit 2.3
Selected Reciprocal Beneficiary and Non-Reciprocal Beneficiary Health Benefit Premiums and Active Employee Taxable Imputed Income Under Kaiser Permanente and HMSA

Medical Plan Carrier	Plan Code & Enrollment	Total Premium ($$)	Employer Share ($$)	Employee Share ($$)	Taxable Imputed Income ($$)
Kaiser Regular (Non-RB)	111 Self Only Plan	149.68	80.58	69.10	0.00
Kaiser Regular (Non-RB)	112 Family Plan	449.00	247.98	201.02	0.00
Kaiser RB Family Plan	113 RB Family Plan (from Self Only Plan)	449.00	80.58	368.42	0.00
Kaiser RB Family Plan	114 RB Family Plan (from Family Plan) RB Only	449.00	247.98	201.02	80.58
Kaiser RB Family Plan	114 RB Family Plan (from Family Plan) RB & RB's Child	449.00	247.98	201.02	247.98
HMSA Regular (Non-RB)	211 Self Only Plan	134.32	80.58	53.74	0.00
HMSA Regular (Non-RB)	212 Family Plan	413.32	247.98	165.34	0.00
HMSA RB Family Plan	213 (from Self Only Plan)	413.32	80.58	332.74	0.00
HMSA RB Family Plan	214 (from Family Plan) RB Only	413.32	247.98	165.34	80.58
HMSA RB Family Plan	214 (from Family Plan) RB & RB's Child	413.32	247.98	165.34	247.98

RB = reciprocal beneficiary

Source: Hawaii Public Employees Health Fund. We did not audit the figures provided by the fund.

counties towards the cost of the reciprocal beneficiary coverage. The interpretation also noted that the law does not amend any employer contribution provision of the health fund law (Chapter 87, HRS) and does not state what benefits are to be included. However, the interpretation said that the pre-existing health fund law imposes an obligation on the State and counties to contribute toward all or a portion of the monthly cost or premium of their employees' health benefit plans.

The legal interpretation recommended that the issue of the amount of the employer's contribution to the health fund toward the payment of costs of reciprocal beneficiary family coverage be submitted to collective bargaining for a determination retroactive to the effective date of the reciprocal beneficiaries law. In the meantime, the interpretation recommended that if an employee enrolls in the reciprocal beneficiary family plan, the employer should pay a share equivalent to the monthly contribution that the employer would have paid for the employee's original plan, not considering the employee-beneficiary's application for reciprocal beneficiary family coverage.

At this time, active state or county employees who enroll in the reciprocal beneficiary family plan from a self-only benefit plan must still pay a substantially higher premium for adding their reciprocal beneficiary than would a non-reciprocal beneficiary employee who is enrolled in a self only plan and subsequently adds a spouse or dependent to his or her family plan. Based on health fund data, we noted a significant decrease in the enrollment of reciprocal beneficiaries in the health fund. At the end of FY1997-98, there were 96 active subscribers in the health fund's reciprocal beneficiaries coverage, with 123 dependents. In FY1998-99, this number dropped to 67 active subscribers with 93 dependents as of October 1998. It is not clear whether this drop resulted from the cost issue discussed above.

Reciprocal beneficiaries also pay additional taxes on health benefit premiums

We also found that the value of the reciprocal beneficiary family coverage "provided but not paid for" is being treated as imputed income to the employee for tax purposes. In cases where the employee's reciprocal beneficiary is not his or her dependent, the premium can be added to the employee's gross income for the year and is subject to taxation by both state and federal authorities.

For example, under Kaiser, if an employee is enrolled under a regular family plan through the health fund and elects to join the reciprocal beneficiary family plan, the employee will then have a taxable imputed income of $80 per month, or an additional $960 per year on which the employee must pay taxes. Moreover, if the employee's reciprocal beneficiary has a child or dependent, the employee's taxable imputed income will increase to $247 per month or an additional $2,964 per year. These amounts are reported as additional income at the end of the calendar year. The health fund will send 1099 forms to retired employees so that they can report the health benefit premiums as income.

In another legal interpretation provided to our office, the Department of the Attorney General offered the following explanation for the treatment of the health benefit premium for reciprocal beneficiaries as imputed taxable income. The federal Defense of Marriage Act of 1996 provides that in interpreting federal statutes and administrative rules and regulations, the term "spouse" refers only to someone of the opposite sex who is a husband or wife. Therefore, even if a state law were to include homosexual or heterosexual domestic partners or reciprocal beneficiaries in the definition of "spouse," the Defense of Marriage Act would override that definition. Accordingly, the Department of the Attorney General added that it would appear that the cost of health benefits provided to domestic partners or reciprocal beneficiaries and their dependents is taxable income to the employee.

Fiscal impact relating to the Employees' Retirement System of the State of Hawaii

Chapter 88, HRS, covers pension and retirement systems for public employees. The chapter establishes the Employees' Retirement System of the State of Hawaii, which provides retirement allowances and other benefits for eligible officers and employees of the state and county governments. The Employees' Retirement System is governed by a Board of Trustees and is administratively attached to the Department of Budget and Finance. Chapter 88 also provides for pensions outside the Employees' Retirement System, including those granted by special acts of the Legislature and those for police officers, firefighters, and members of the Royal Hawaiian Band.

The reciprocal beneficiaries law amended Chapter 88 by incorporating reciprocal beneficiary provisions. On the death of a person who is a member of the Employees' Retirement System or eligible for one of the other Chapter 88 pensions, the member's reciprocal beneficiary now is entitled to certain pension-related benefits as a spouse of the deceased would be.

Officials of the retirement system informed us that the reciprocal beneficiaries law has had little effect on the system other than adding reciprocal beneficiaries as eligible recipients of benefit payments upon an employee's death, or in certain other cases that include pensions granted by special acts of the Legislature.

With regard to contributory members of the retirement system, the reciprocal beneficiaries law has little significance. Even prior to the law, these members could choose whomever they wished as their beneficiaries, including friends.

The reciprocal beneficiaries law has potentially greater significance with regard to noncontributory members of the retirement system. Prior to the law, only the surviving spouse of a noncontributory member was eligible to receive death benefits on the employee's death. If no surviving spouse existed, no death benefits could be paid. The law added reciprocal beneficiaries of the employee to an existing list of potential recipients of death benefits. Officials of the retirement system have expressed some concern that making reciprocal beneficiaries eligible for death benefits could add to the system's costs.

However, the officials informed us that as of December 1998, a reciprocal beneficiary has been named as a death benefit recipient in only one case. The officials stated that they do not maintain detailed information on reciprocal beneficiaries in the retirement system because of the limited number involved. Retirement system records make no distinction between a reciprocal beneficiary employee and non-reciprocal beneficiary employee.

In light of the above, we concluded that with regard to the retirement system, the reciprocal beneficiaries law has had little if any fiscal impact upon the state and county governments and consumers. Also, the private sector has not been affected fiscally, since the retirement system affects government employees only.

Fiscal impact relating to prepaid health care

Chapter 393, HRS, the Hawaii Prepaid Health Care Act, requires employers to cover eligible employees under a qualified prepaid group health care plan with a prepaid health care plan contractor. The law sets minimum standards of health care coverage and helps to pay for medical costs related to off-the-job injuries and illnesses. Employers elect whether the health plan will require the contractor to provide health care benefits or just defray or reimburse health care expenses. The Department of Labor and Industrial Relations administers the law by working to ensure that the health insurance plans sold in Hawaii offer the legally required benefits.

The reciprocal beneficiaries law did not amend the prepaid health care act. However, the law amended the state Insurance Code in ways that could affect organizations providing prepaid health care coverage (including coverage required by the prepaid health care act). Section 4 of the reciprocal beneficiaries law required that under the "accident and sickness insurance" provisions of the state Insurance Code (Article 10A of Chapter 431, HRS), "reciprocal beneficiary family coverage" must be made available, but only to the extent that family coverage is currently available to non-reciprocal beneficiaries. If a reciprocal beneficiary policyholder incurs additional costs or premiums by electing reciprocal beneficiary family coverage, the employer may pay the additional costs of premiums.

Officials of the Department of Labor and Industrial Relations believe that Section 4 of Act 383 will have no fiscal impact on the state or county governments because the act affects insurance carriers only, not employers. (The department also noted that it has no jurisdiction over Act 383 as it relates to prepaid health care because the department only regulates private sector employers who are non-union and non-collective bargaining.)

The Insurance Division in the Department of Commerce and Consumer Affairs informed us that the reciprocal beneficiaries law has had little impact on health insurance in Hawaii. It noted that the impact of the law diminished significantly when the state attorney general (in Opinions 97-05 and 97-10) concluded that Section 4 of the law applies only to insurance companies and not to employers, health maintenance organizations, or mutual benefit societies.

Privately run health care organizations also see little impact from the reciprocal beneficiaries law. We spoke with representatives of Kaiser Permanente, HMSA, and Kapi'olani HealthHawaii. Each of these organizations reported that the law has had little impact on their provision of health care coverage. Kaiser Permanente informed us that only about 30 of its members are reciprocal beneficiaries; Kapi'olani HealthHawaii reported only one member. All three organizations reported that they impose no additional charge for reciprocal beneficiary family coverage; it is the same as regular family coverage. The limited impact of the reciprocal beneficiaries law on these organizations is due in part to the attorney general's interpretations of the law's scope.

We conclude that as related to prepaid health care, the reciprocal beneficiaries law has not had a significant fiscal impact on state government, county government, and the private sector. Also, the impact on consumers seems insignificant in the private insurance sector because the companies do not charge differently for family coverage and reciprocal beneficiary family coverage.

Conclusion

The fiscal impact of Act 383, SLH 1997—the reciprocal beneficiaries law—has been minimal in the four areas that the Legislature asked us to study (workers' compensation, the Hawaii Public Employees Health Fund, the Employees' Retirement System, and prepaid health care). Our conclusion includes the impact on state government, county government, the private sector, and consumers in Hawaii.

The minimal impact of the law can be attributed to two major factors: the small number of individuals who have entered into a reciprocal beneficiary relationship (870 as of October 1998) and the limits of the law itself. For example, the law imposes one of the coverage requirements on insurance companies but not on health maintenance organizations, mutual benefit societies, and employers.

The law's fiscal impact could change if more people become reciprocal beneficiaries or if the law is amended (or interpreted by a court) to require broader coverage, for example by including health maintenance organizations and mutual benefit societies. Amending the law to expand its scope is a policy decision for the Legislature and the governor.

Finally, we again note that Section 2 of Act 383—which requires the Hawaii Public Employees Health Fund to establish a reciprocal beneficiary family coverage health benefits plan for any employee who is a reciprocal beneficiary and elects such a plan—will be repealed on June 30, 1999, unless the requirement is extended through legislation.

Appendix A
Reciprocal Beneficiary Family Coverage Participation and Liabilities Under the Hawaii Public Employees Health Fund, FY1997-98 (Details)

Public Employee Group and Health Benefit	Subscribers	No. of Dependents	Total Count	Employee Liability ($$)	Employer Liability ($$)	Total Liability ($$)
State of Hawaii Active Employees						
Medical	17	25	42	23,643	19,316	42,959
Drug	21	28	49	4,989	2,904	7,893
Vision	16	22	38	626	555	1,181
Adult Dental	19	19	38	3,335	1,791	5,126
Total	**73**	**94**	**167**	**32,593**	**24,566**	**57,159**
State of Hawaii Retired Employees						
Medical	5	6	11	0	16,228	16,228
Drug	6	7	13	0	5,415	5,415
Vision	4	5	9	0	247	247
Adult Dental	5	5	10	0	1,682	1,682
Total	**20**	**23**	**43**	**0**	**23,572**	**23,572**
City and County of Honolulu Active Employees						
Medical	2	2	4	0	712	712
Drug	4	4	8	141	136	277
Vision	3	3	6	15	35	50
Adult Dental	4	4	8	28	242	270
Total	**13**	**13**	**26**	**184**	**1,125**	**1,309**
City and County of Honolulu Retired Employees						
Medical	1	2	3	0	1,626	1,626
Drug	1	2	3	0	256	256
Vision	1	2	3	0	24	24
Adult Dental	1	1	2	0	120	120
Total	**4**	**7**	**11**	**0**	**2,026**	**2,026**
Hawaii County Active Employees						
Medical	1	1	2	2,939	712	3,651
Drug	0	0	0	0	0	0
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**1**	**1**	**2**	**2,939**	**712**	**3,651**
Hawaii County Retired Employees						
Medical	0	0	0	0	0	0
Drug	0	0	0	0	0	0
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**	**0**
Maui County Active Employees						
Medical	2	4	6	3,102	2,993	6,095
Drug	2	4	6	188	413	601
Vision	2	4	6	76	82	158
Adult Dental	2	2	4	424	181	605
Total	**8**	**14**	**22**	**3,790**	**3,669**	**7,459**

Public Employee Group and Health Benefit	Subscribers	No. of Dependents	Total Count	Employee Liability ($$)	Employer Liability ($$)	Total Liability ($$)
Maui County Retired Employees						
Medical	0	0	0	0	0	0
Drug	0	0	0	0	0	0
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**	**0**
Kauai County Active Employees						
Medical	0	0	0	0	0	0
Drug	0	0	0	0	0	0
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**	**0**
Kauai County Retired Employees						
Medical	0	0	0	0	0	0
Drug	0	0	0	0	0	0
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**	**0**
Board of Water Supply Active Employees						
Medical	0	0	0	0	0	0
Drug	1	1	2	516	125	641
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**1**	**1**	**2**	**516**	**125**	**641**
Board of Water Supply Retired Employees						
Medical	0	0	0	0	0	0
Drug	0	0	0	0	0	0
Vision	0	0	0	0	0	0
Adult Dental	0	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**	**0**
Grand Total Active Employees						
Medical	22	32	54	29,684	23,733	53,417
Drug	58	37	65	5,834	3,578	9,412
Vision	21	29	50	716	672	1,388
Adult Dental	25	25	50	3,787	2,214	6,001
Total	**96**	**123**	**219**	**40,021**	**30,197**	**70,218**
Grand Total Retired Employees						
Medical	6	8	14	0	17,854	17,854
Drug	7	9	16	0	5,671	5,671
Vision	5	7	12	0	271	271
Adult Dental	6	6	12	0	1,802	1,802
Total	**24**	**30**	**54**	**0**	**25,598**	**25,598**

Source: Hawaii Public Employees Health Fund. We did not audit the figures provided by the fund. We rounded all dollar figures to the nearest dollar.

Note: A reciprocal beneficiary may be counted more than once in the "number of subscribers" and "number of dependents" columns since he or she may have multiple coverages (medical, dental, etc.).

Responses of the Affected Agencies

Comments on Agency Responses

We transmitted drafts of this report to the Department of Labor and Industrial Relations, the Hawaii Public Employees Health Fund, the Employees' Retirement System of the State of Hawaii, and the Department of Commerce and Consumer Affairs on April 8, 1999. A copy of the transmittal letter to the Department of Labor and Industrial Relations is included as Attachment 1. A similar letter was sent to the health fund, the retirement system, and the Department of Commerce and Consumer Affairs. The response from the health fund is included as Attachment 2. The response from the retirement system is included as Attachment 3, not including the attachments to the retirement system's letter, which are on file at our office. The Department of Labor and Industrial Relations and the Department of Commerce and Consumer Affairs did not submit responses.

The Hawaii Public Employees Health Fund commented that lack of available reciprocal beneficiary information resulted in low enrollment in the health fund's reciprocal beneficiary health benefit plans. It states in its response that if the Legislature extends the law and modifications are made to collective bargaining agreements, more employees and retirees will enroll their reciprocal beneficiaries.

The Employees' Retirement System of the State of Hawaii requested some changes in our draft report. The final report addresses the request.

We made a few other editorial changes to the draft report for purposes of clarity, accuracy, and style.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

MARION M. HIGA
State Auditor

(808) 587-0800
FAX: (808) 587-0830

April 8, 1999

COPY

The Honorable Lorraine H. Akiba, Director
Department of Labor and Industrial Relations
Keelikolani Building
830 Punchbowl Street
Honolulu, Hawaii 96813

Dear Ms. Akiba:

Enclosed for your information are three copies, numbered 6 to 8 of our draft report, *Study of the Fiscal Impact of Providing Certain Benefits to Reciprocal Beneficiaries*. We ask that you telephone us by Monday, April 12, 1999, on whether or not you intend to comment on the draft report. If you wish your comments to be included in the report, please submit them no later than Thursday, April 15, 1999.

The Department of Commerce and Consumer Affairs, the Hawaii Public Employees Health Fund, the Employees' Retirement System of the State of Hawaii, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa

Marion M. Higa
State Auditor

Enclosures

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
HAWAII PUBLIC EMPLOYEES HEALTH FUND
P. O BOX 2121
HONOLULU, HAWAII 96805

April 15,1999

RECEIVED
APR 16 1 23 PM '99
OFC. OF THE AUDITOR
STATE OF HAWAII

Ms. Marion M. Higa
State Auditor
Office of the Auditor
465 South King Street, room 500
Honolulu, Hawaii 96813-2917

Dear Ms. Higa:

Thank you for permitting the Health Fund to review your draft report on reciprocal beneficiaries.

Due to a late legal interpretation of Act 383, SLH 1987, by the State Attorney General's Office, the Health Fund was not able to include RB information and enrollment materials in our 1998 Open Enrollment Period Benefit Plans booklets which are distributed to 60,000 State and County employees and 30,000 retirees. Thus, the lack of available information resulted in low enrollments in the Health Fund's reciprocal beneficiary health benefit plans.

If the law is extended by the State Legislature and modifications made to collective bargaining agreements, I'm sure more employees and retirees will enroll their reciprocal beneficiaries.

Sincerely,

Cenric S.K. Ho

CENRIC S.K. HO
Administrator

ATTACHMENT 3

BENJAMIN J. CAYETANO
GOVERNOR

RECEIVED
APR 14 1 27 PM '99
OFC. OF THE AUDITOR
STATE OF HAWAII

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

April 13, 1999

Ms. Marion M. Higa
State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

Dear Ms. Higa:

This is in response to your letter dated April 8, 1999, regarding the "Study of the Fiscal Impact of Providing Certain Benefits to Reciprocal Beneficiaries."

Since our retirees designate beneficiary(ies) when they retire, provisions relating to reciprocal beneficiaries generally affect employees rather than retirees. We therefore request that all references to "retiree" be changed to "employee" on pages 6, 14 and 15 (see attached).

We are also returning copies of the draft reports numbered 15 to 17. If you have any questions, please contact me at 586-1700.

Very truly yours,

David Shimabukuro

David Shimabukuro
Administrator

Attachments

City Financial Tower
201 Merchant Street, Suite 1400 • Honolulu, Hawaii 96813-2980
Telephone (808) 586-1660 • Fax (808) 586-1677