

Proposed Mandatory Health Insurance Coverage for Pharmacist Services

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

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OFFICE OF THE AUDITOR
STATE OF HAWAII



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Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
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Foreword

Through Senate Concurrent Resolution No. 17, Senate Draft 1, House Draft 1 (2023 Regular Session), the Legislature requested we assess the social and financial impacts of mandating health insurance coverage for services provided by pharmacists, as proposed in Senate Bill No. 165 which was introduced during the 2023 Regular Session. Pursuant to Section 23-51, Hawai‘i Revised Statutes, before the Legislature considers a measure that mandates health insurance coverage for specific health services, diseases, or providers, the Auditor is required to assess the social and financial impacts of the proposed coverage. For the reasons described herein, we are unable to complete the requested work.

We appreciate the cooperation and assistance of the Hawai‘i Insurance Commissioner, Hawai‘i Board of Pharmacy, the Hawai‘i Pharmacists Association, the Hawai‘i Medical Service Association, and other organizations and individuals we contacted during the course of this assessment.

Leslie H. Kondo
State Auditor

Table of Contents

Introduction	1
Assessment of proposed mandatory health insurance coverage for pharmacist services.....	1
Senate Bill No. 165	2
Sections 23-51 and 23-52, Hawai'i Revised Statutes	2
Social Impact	3
Financial Impact	3
The proposed health insurance coverage is not “mandatory”	4
The proposed health insurance coverage does not extend coverage for additional health care services or diseases	5
Conclusion	6



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Proposed Mandatory Health Insurance Coverage for Pharmacist Services

Introduction

Assessment of proposed mandatory health insurance coverage for pharmacist services

Senate Concurrent Resolution No. 17, Senate Draft 1, House Draft 1 (2023 Regular Session) (SCR 17, SD 1, HD 1) requests the Auditor to assess the social and financial impacts of mandating health insurance coverage for services provided by pharmacists, as proposed in Senate Bill No. 165 (SB 165) which was introduced in the Regular Session of 2023. SCR 17, SD 1, HD 1 also requests the Auditor to assess the impact of Section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (ACA) on the proposed mandatory health insurance coverage in SB 165 that includes, but is not limited to, the additional cost to the State of benefits beyond the essential health benefits of Hawai‘i’s qualified health plans under the ACA.

We conducted this assessment in accordance with Sections 23-51 and 23-52, Hawai‘i Revised Statutes (HRS).

“... we found that because insurers are not required to provide insurance coverage for services performed by any pharmacist, the proposed coverage is not mandatory. Therefore, we cannot assess the impacts of the proposed coverage.”

Senate Bill No. 165

SB 165 will mandate insurance coverage for services provided by pharmacists within their scope of practice by private and public health plans in the State. Section 1 of the bill includes the legislative intent underlying the mandatory coverage: “The [L]egislature finds that there is currently a statewide physician shortage” and “that pharmacists can help bridge the gaps created by the physician shortage.” The bill also notes that, in addition to dispensing medication, pharmacists are skilled in educating patients on how and when to check blood sugar, ways to avoid and manage hypoglycemia, how to take medications correctly to avoid adverse effects, and various medication utilization techniques.

SB 165 will amend the Hawai‘i Insurance Code to require accident and health or sickness insurance policies, and hospital or medical service plan contracts, written pursuant to Chapters 431, 432, and 432D, HRS, to recognize pharmacists licensed pursuant to Chapter 461, HRS, as “participating providers.” SB 165 further requires that policies, contracts, plans, and agreements described in the bill “include coverage for care provided by a participating registered pharmacist practicing within the scope of their license for purposes of health maintenance or treatment to the extent that the policy provides benefits for identical services rendered by another health care provider.” The bill defines a participating registered pharmacist as a pharmacist licensed pursuant to Chapter 461, HRS, who has contracted with the insurer, mutual benefit society, or health maintenance organization to provide health care services.¹

Sections 23-51 and 23-52, Hawai‘i Revised Statutes

Section 23-51, HRS, requires passage of a concurrent resolution requesting a social and financial 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 statute also requires that the concurrent resolution designate a specific bill that has been introduced in the Legislature and include, at a minimum, information identifying the:

- Specific health service, disease, or provider that would be covered;
- Extent of the coverage;
- Target groups that would be covered;

¹ For convenience, insurer, mutual benefit society, and health maintenance organization may be collectively referred to as “insurer” or “insurers.”

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- Limits on utilization, if any; and
 - Standards of care.

Section 23-52, HRS, requires the Auditor's report to the Legislature assessing the impact of proposed mandated coverage to include, at the minimum and to the extent that information is available, the following:

Social Impact

- The extent to which the treatment or service is generally utilized by a significant portion of the population;
- The extent to which such insurance coverage is already generally available;
- 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;
- If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;
- The level of public demand for the treatment or service;
- The level of public demand for individual or group insurance coverage of the treatment or service;
- The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts;
- 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); and
- 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 Section 23-52, HRS.

Financial Impact

- The extent to which insurance coverage of the kind proposed would increase or decrease the cost of the treatment or service;
- The extent to which the proposed coverage might increase the use of the treatment or service;
- The extent to which the mandated treatment or service might serve as an alternative for more expensive treatment or service;
- 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; and
- The impact of this coverage on the total cost of health care.

The proposed health insurance coverage is not “mandatory”

Subsection (a) of the proposed Section 431:10A-__ requires that every individual and group health insurance policy “shall include coverage for care provided by a participating registered pharmacist practicing within the scope of their license for purposes of health maintenance or treatment to the extent that the policy provides benefits for identical services rendered by another health care provider.”² “Participating registered pharmacist” is defined to mean “a pharmacist licensed pursuant to chapter 461 *who has contracted with the insurer to provide health care services to its insureds.*” (Emphasis added.)

Read together, a health insurer is only required to include coverage for services provided by those pharmacists with which the insurer contracts to provide health care services to its insureds. SB 165 does not *require* an insurer to contract with pharmacists who want to provide health care services to those covered under the insurer’s policies; the bill gives the insurer complete and unfettered discretion to contract – *or not to contract* – with pharmacists.³ Because the insurer is not required to provide insurance coverage for services performed by any pharmacist, we do not construe the proposed coverage to be mandatory.⁴

Section 23-51, HRS, requires the Auditor to assess certain social and financial impacts of proposed *mandatory* health insurance coverage. As the coverage proposed in SB 165 is *not* mandatory health insurance coverage, we are not required to – and cannot – assess the impacts of the proposed coverage. Without any understanding as to the number of pharmacists whose health care services will be covered, i.e., the number of pharmacists that will contract with insurers to provide health care services, we cannot assess, for instance, the extent the proposed

² SB 165 also will require individual and group hospital or medical service plans issued by a mutual benefit society or health maintenance organization pursuant to Chapter 432, HRS, or Chapter 432D, HRS, respectively, to include the identical coverage for services provided by participating registered pharmacists. Our discussion regarding the coverage proposed to be mandated for health insurance policies is equally applicable to the coverage proposed under the plans issued by a mutual benefit society or health maintenance organization.

³ SB 165 also does not include any criteria or standards to be used by an insurer in determining whether to contract with a licensed pharmacist.

⁴ According to HMSA, it currently does contract with selected pharmacies (or organizations providing services through employee pharmacists) to provide services to its insureds. Because we concluded that the proposed insurance coverage is not mandatory and that, for the reasons explained, we cannot meaningfully assess the social and financial impacts of the proposed coverage, we did not obtain more information about HMSA’s contracts with pharmacists; however, assuming that the contracts allow those pharmacists to provide the same types of health care services described in SB 165, the expansion of coverage proposed by the bill to include health care services by pharmacists that insurers select, through contract, to provide services to their insureds is the current practice of HMSA, the State’s largest health insurer.

coverage for services provided by pharmacists will increase or decrease the cost of health care services; similarly, we cannot assess the extent the proposed coverage will increase the use of pharmacists to provide health care services.

In addition to knowing the number of pharmacists that will contract with insureds, it is necessary to understand *which* pharmacists will contract with insurers to assess the social and financial impacts of the proposed coverage. The bill reflects the intent of mandating insurance coverage for health care services provided by pharmacists; the Legislature found that pharmacists can “bridge the gaps created by the physician shortage” by providing health care services in medically underserved areas of the State. Considering that intent, we assume that a pharmacist in a medically underserved area likely will provide health care services to more insureds (and different types of care) compared to a pharmacist located in Honolulu. The amount and types of health care services provided by a pharmacist directly impacts both the social and financial factors that we are to assess.

The proposed health insurance coverage does not extend coverage for additional health care services or diseases

SCR 17, SD 1, HD 1, requests the Auditor to assess the impact of Section 1311(d)(3) of the federal Patient Protection and Affordable Care Act and determine the actuarial cost of the defrayment to the State for the reimbursement of services provided by pharmacists. Section 1311(d)(3) of the ACA allows states to mandate health insurance coverage for benefits beyond the essential health benefits specified under Section 1302(b) of the ACA as part of a qualified health plan; however, the states may be required to defray the costs of the additional, mandated benefits.

Regarding the proposed insurance coverage for health care services performed by pharmacists, we do not believe such coverage will result in any cost to the State. The bill specifically limits the proposed coverage for health care services by pharmacists “to the extent that the policy provides benefits for identical services rendered by another health care provider.” That limitation means that the bill does not propose to cover additional health services or diseases. Accordingly, the policies offered under the ACA currently include coverage for most of the services that the bill proposes to mandate insurance coverage for pharmacists to perform, and therefore, the proposed coverage likely will not require the State to defray costs, if enacted.

Conclusion

For the reasons stated above, we are unable to complete an assessment of the social and financial impact of mandated health insurance coverage for services provided by pharmacists as proposed in SB 165.