



REPORT OF THE FORMULARY ACCESSIBILITY WORKING GROUP

Pursuant to Act 197 (2015)
ESTABLISHING A FORMULARY ACCESSIBILITY WORKING
GROUP FOR THE PURPOSES OF MAKING RECOMMENDATIONS
FOR A STANDARD FORMULARY TEMPLATE

Prepared by the

INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

December 2015

**REPORT OF THE FORMULARY ACCESSIBILITY WORKING GROUP
PURSUANT TO ACT 197 (H.B. NO. 261, H.D. 2, S.D. 2, C.D. 1) (2015)**

INTRODUCTION

ACT 197 (2015) (“Act”) requested that the Insurance Commissioner appoint and administer a working group (“Working Group”) and make recommendations relating to standardizing a formulary template. A copy of the Act is attached as Appendix A.

The members of the Working Group are:

- (1) The Insurance Commissioner or the Commissioner’s designee, who serves as chair;
- (2) The Director of Health or the Director’s designee;
- (3) Representatives from the health care provider community;
- (4) Representatives from the Board of Pharmacy;
- (5) Representatives from the Hawaii Association of Health Plans; and
- (6) A representative from the American Cancer Society Cancer Action Network – Hawaii Pacific Region.

The Act requested that the Working Group report its recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 2016.

DISCUSSION

The Working Group met on September 24, 2015, October 1, 2015, October 15, 2015, November 5, 2015, and November 16, 2015, pursuant to public notices filed with the Lieutenant Governor’s Office. Copies of the Working Group’s posted notices are attached as Appendix B.

As the Working Group was convened pursuant to the Act, the Working Group does not fall within the statutory definition of a “board” as defined in the State’s Sunshine Law (Chapter

92, Hawaii Revised Statutes). However, in the interest of promoting open government, the Chair follows the Sunshine Law. Copies of the Working Group’s minutes are attached as Appendix C.

The purpose of H.B. No. 261, H.D. 2 (H.B. No. 261 was introduced as a short-form bill) was to “ensure transparency of prescription drug benefits and assist consumers with making more informed choices about health care coverage by requiring health insurers, mutual benefit societies, and health maintenance organizations to post and update information on drug formularies on their websites.” HSCR Nos. 422 and 708 (2015). As the Bill moved through the 2015 legislative committees, the purpose remained the same but formed a formulary accessibility working group to make recommendations for a standard formulary template. H.B. No. 261, H.D.2, S.D. 1. This latter provision remained unchanged through the rest of the legislative session and became law when H.B. No. 261, H.D. 2, S.D. 2, C.D. 1 became the Act.

1. Meetings

The Working Group met five times. Insurance Commissioner Gordon Ito chaired the Working Group, and the following members also participated:

Rebecca Kang, R.N., or Joan Takamori, A.P.R.N., representing the Director of Health;

Dr. Christopher Flanders representing the health care provider community;

Lee Ann Teshima representing the Board of Pharmacy;

Jennifer Diesman representing the Hawaii Association of Health Plans; and

Cory Chun representing the American Cancer Society Cancer Action Network – Hawaii Pacific Region.

Representatives from CVS Health, Family Health Hawaii, and Kaiser Permanente also attended at various times and contributed to the discussions.

2. Presentations

CVS Health, in conjunction with the Hawaii Medical Service Association and Kaiser Permanente, gave presentations on formularies currently being used on their respective websites. CVS Health has an open formulary, whereas Kaiser has a closed formulary, and the Working Group took note of the differences between the two. Both formularies were represented as being compliant with the Patient Protection and Affordable Care Act (“PPACA”), and it would require a tremendous amount of time and resources if CVS Health and Kaiser had to transition to a different standard template.

3. Discussions

Through the examination and discussion of the requirements of the PPACA and the Act, the Working Group considered and discussed the following topics:

- I. With regard to the PPACA:
 - A. A formulary must be created to allow those interested in its contents to have an opportunity for review;
 - B. There is no PPACA standardized formulary template; and
 - C. There is only federal guidance on the creation of templates.
- II. With regard to servicing the public:
 - A. Currently, non-members of health plans may partially look at existing formularies on the internet;
 - B. Members of health plans may call their insurers at any time if they have questions on formulary pricings;
 - C. Currently, the public may call insurers if they have questions regarding formularies to get further information;

- D. The price of a drug through a formulary is only for the period of time in which the formulary is seen and probably will not apply when the client purchases the drug in the future;
 - E. The elderly will probably have a difficult time accessing, understanding, and navigating formularies on insurers' websites;
 - F. Consumers would be very confused if health insurers had different formularies; and
 - G. Some members of the public have health savings accounts, and it would be difficult for them to access an insurer's complete formulary.
- III. With regard to standardizing a formulary template for all insurers to use:
- A. The Act requires all health insurers to comply with its requirements;
 - B. While the spirit of the Act makes sense, the implementation of all of its requirements is problematic.
 - C. Insurers have built and are using different formularies based on their own needs and economic circumstances;
 - E. The Act's required use of "\$" categories are different from what some insurers are currently using;
 - F. The Act's requirement of a "price" category is problematic since drug prices change frequently without notice and are impacted by clients' plan coverages;
 - G. Every Food and Drug Administration drug must be on an "open" formulary, which will require each insurer with an open formulary to maintain a team to constantly monitor the formulary and update all

changes to the formulary, especially in relation to the types of plans currently being used;

- H. Specialty and non-specialty drug prices fluctuate constantly, which will affect the number of times formularies need to be changed;
- I. Kaiser is currently working on posting changes within 30 days. Posting changes within 14 days as required by the Act would require changes to Kaiser's operations; and
- J. As a compromise, standardizing the most popular formularies but not others would not work.

Also, it was noted that Texas passed a similar bill to the Act but no working group was created. The requirements of the Texas legislation start in 2017.

RECOMMENDATIONS

After much discussion and deliberation, the Working Group makes the following recommendations:

1. Health plans' formularies should contain the following uniform statement to help consumers make informed decisions about drug costs.

“Your costs

The amount you pay for a covered drug will depend on your coverage tier. Each covered drug is in one of several tiers. Each drug's tier amount may be different. Each drug tier may have a different copayment or coinsurance amount.

Please refer to your Annual Evidence of Coverage for additional information. To find out the cost of your drugs, you may contact _____.”

2. Health plans should not be mandated to use a standard formulary, as they may have an open or a closed formulary and they have built and are using different formularies based on their own needs and economic circumstances.
3. Health plans should be allowed to meet the requirements of the Act without using a standard formulary.

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new section to article 10A to be
3 appropriately designated and to read as follows:

4 "§431:10A- Formulary; accessibility requirements. (a)

5 Each insurer offering or renewing an individual or group
6 accident and health or sickness insurance policy on or after
7 January 1, 2017, shall provide the following information via a
8 public website and through a toll-free number that is posted on
9 the insurer's website:

10 (1) Its formulary; provided that notice of any changes due
11 to the addition of a new drug or deletion of any
12 existing drug shall be made available no later than
13 seventy-two hours after the effective date of the
14 change; provided further that notice of other changes,
15 including drug strength or form, shall be made
16 available within fourteen calendar days of the
17 effective date of the change;



1 (2) Provide a system that allows an insured or potential
2 insured to determine whether prescription drugs are
3 covered under the plan's medical benefits and
4 typically administered by a provider, along with any
5 cost-sharing imposed on such drugs;

6 (3) Indicate a dollar amount range of cost-sharing
7 typically paid by an insured of each specific drug
8 included on the formulary based on the information the
9 insurer has available, as follows:

10 (A) \$100 and under: \$;

11 (B) Over \$100 to \$250: \$\$;

12 (C) Over \$250 to \$500: \$\$\$;

13 (D) Over \$500 to \$1,000: \$\$\$\$; and

14 (E) Over \$1,000: \$\$\$\$\$; and

15 (4) Display standardized content for the formulary for
16 each product offered by the plan pursuant to
17 recommendations made by the formulary accessibility
18 working group established pursuant to Act _____,
19 Session Laws of Hawaii 2015.

20 (b) For the purposes of this section, "formulary" means
21 the complete list of drugs preferred for use and eligible for



1 coverage under a policy, including drugs covered under the
2 policy's pharmacy benefit and medical benefit as defined by the
3 health care service plans.

4 (c) This section shall not apply to limited benefit health
5 insurance as provided in section 431:10A-102.5; provided further
6 that this section shall not apply to medicare, medicaid, or
7 other federally financed plans."

8 SECTION 2. Chapter 432, Hawaii Revised Statutes, is
9 amended by adding a new section to article 1 to be appropriately
10 designated and to read as follows:

11 "§432:1- Formulary; accessibility requirements. (a)
12 Each mutual benefit society offering or renewing an individual
13 and group hospital or medical service plan contract on or after
14 January 1, 2017, shall provide the following information via a
15 public website and through a toll-free number that is posted on
16 the mutual benefit society's website:

17 (1) Its formulary; provided that notice of any changes due
18 to the addition of a new drug or deletion of any
19 existing drug shall be made available no later than
20 seventy-two hours after the effective date of the
21 change; provided further that notice of other changes,



1 including drug strength or form, shall be made
2 available within fourteen calendar days of the
3 effective date of the change;

4 (2) Provide a system that allows a subscriber or potential
5 subscriber to determine whether prescription drugs are
6 covered under the plan's medical benefits and
7 typically administered by a provider, along with any
8 cost-sharing imposed on such drugs;

9 (3) Indicate a dollar amount range of cost-sharing
10 typically paid by a subscriber of each specific drug
11 included on the formulary based on the information the
12 mutual benefit society has available, as follows:

13 (A) \$100 and under: \$;

14 (B) Over \$100 to \$250: \$\$;

15 (C) Over \$250 to \$500: \$\$\$;

16 (D) Over \$500 to \$1,000: \$\$\$\$; and

17 (E) Over \$1,000: \$\$\$\$\$; and

18 (4) Display standardized content for the formulary for
19 each product offered by the plan pursuant to
20 recommendations made by the formulary accessibility



1 working group established pursuant to Act _____,
2 Session Laws of Hawaii 2015.

3 (b) For the purposes of this section, "formulary" means
4 the complete list of drugs preferred for use and eligible for
5 coverage under a policy, including drugs covered under the
6 policy's pharmacy benefit and medical benefit as defined by the
7 health care service plans.

8 (c) This section shall not apply to limited benefit health
9 insurance as provided in section 431:10A-102.5; provided further
10 that this section shall not apply to medicare, medicaid, or
11 other federally financed plans."

12 SECTION 3. Section 432D-23, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§432D-23 Required provisions and benefits.**

15 Notwithstanding any provision of law to the contrary, each
16 policy, contract, plan, or agreement issued in the State after
17 January 1, 1995, by health maintenance organizations pursuant to
18 this chapter, shall include benefits provided in sections
19 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
20 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121,



1 431:10A-125, 431:10A-126, 431:10A-122, [~~and~~] 431:10A-116.2, and
2 431:10A-_____, and chapter 431M."

3 SECTION 4. (a) There is established a formulary
4 accessibility working group to be appointed and administered by
5 the insurance commissioner for the purpose of making
6 recommendations for a standard formulary template pursuant to
7 this Act. The working group shall include the following
8 members:

- 9 (1) Insurance commissioner, or the commissioner's
10 designee, who shall serve as chair;
- 11 (2) Director of health, or the director's designee;
- 12 (3) Representatives from the health care provider
13 community;
- 14 (4) Representatives from the board of pharmacy;
- 15 (5) Representatives from the Hawaii Association of Health
16 Plans; and
- 17 (6) One representative from the American Cancer Society
18 Cancer Action Network - Hawaii Pacific Region.

19 (b) The formulary accessibility working group shall make
20 its recommendations related to a standard formulary template to



1 the legislature no later than twenty days prior to the convening
2 of the regular session of 2016.

3 (c) The formulary accessibility working group shall
4 dissolve on June 30, 2016.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2015.



Report Title:

Drug Formulary; Posting Requirements; Insurers; Health Plan

Description:

Requires health insurers, mutual benefit societies, and health maintenance organizations to post and update information on drug formularies via a public website and toll-free number for the benefit of insureds, potential insureds, and providers.

Establishes a formulary accessibility working group. (HB261 CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



FORMULARY ACCESSIBILITY WORKING GROUP

Insurance Division, Department of Commerce &
Consumer Affairs, State of Hawaii
www.hawaii.gov/dcca/ins

NOTICE OF PUBLIC INFORMATIONAL HEARING

DATE: Thursday, September 24, 2015
TIME: 2:00 p.m.
PLACE: Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

A G E N D A

Act 197 (H.B. No. 261, H.D.2, S.D. 2, C.D. 1) which became law on July 6, 2015, established the formulary accessibility working group to be administered by the State Insurance Commissioner. The purpose of the working group is to make recommendations for a standard formulary template to be used by insurers on their own respective websites.

The working group will be conducting its first public meeting at the above date, time, and location to discuss the following topics:

- I. Call to order; public notice
- II. Sunshine Law
- III. Introduction of working group members
- IV. Introduction of Chair and selection of Vice Chair
- V. Scope of work and deadlines
- VI. Discussion of formulary templates currently being used
- VII. Submission of testimony by interested parties and members of the public
- VIII. Recommendations
- IX. Next meeting
- X. Adjournment

For further information, please contact Paul Yuen at (808) 586-3040.

Gordon I. Ito, Insurance Commissioner

Individuals who require special accommodations (e.g., sign language interpreter, large print, taped materials, wheelchair access, or parking for the disabled) may call Paul Yuen at (808) 586-2790 at least 4 working days prior to the meeting so that arrangements may be made.

APPENDIX B

FORMULARY ACCESSIBILITY WORKING GROUP

Insurance Division, Department of Commerce &
Consumer Affairs, State of Hawaii
www.hawaii.gov/dcca/ins

NOTICE OF PUBLIC INFORMATIONAL HEARING

DATE: Thursday, October 1, 2015
TIME: 2:00 p.m.
PLACE: Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

A G E N D A

Act 197 (H.B. No. 261, H.D.2, S.D. 2, C.D. 1) which became law on July 6, 2015, established the formulary accessibility working group to be administered by the State Insurance Commissioner. The purpose of the working group is to make recommendations for a standard formulary template to be used by insurers on their own respective websites.

The working group will be conducting its first public meeting at the above date, time, and location to discuss the following topics:

- I. Call to order; public notice
- II. Approval of minutes of 9/24/15 meeting
- III. Continued discussion of formulary templates currently being used
- IV. Submissions of testimony by interested parties and members of the public regarding formulary templates
- V. Recommendations for a standard formulary template to be used by insurers on their own respective websites
- VI. Adjournment

For further information, please contact Paul Yuen at (808) 586-3040.

Gordon I. Ito, Insurance Commissioner

Individuals who require special accommodations (e.g., sign language interpreter, large print, taped materials, wheelchair access, or parking for the disabled) may call Paul Yuen at (808) 586-2790 at least 4 working days prior to the meeting so that arrangements may be made.

FORMULARY ACCESSIBILITY WORKING GROUP
Insurance Division, Department of Commerce &
Consumer Affairs, State of Hawaii
www.hawaii.gov/dcca/ins

NOTICE OF PUBLIC INFORMATIONAL HEARING

DATE: Thursday, October 15, 2015
TIME: 2:00 p.m.
PLACE: Prince Leleiohoku Conference Room
King Kalakaua Building
335 Merchant Street, 3rd Floor
Honolulu, HI 96813

A G E N D A

Act 197 (H.B. No. 261, H.D.2, S.D. 2, C.D. 1) which became law on July 6, 2015, established the formulary accessibility working group to be administered by the State Insurance Commissioner. The purpose of the working group is to make recommendations for a standard formulary template to be used by insurers on their own respective websites.

The working group will address the following topics:

- I. Call to order; public notice
- II. Approval of minutes of 10/01/15 meeting
- III. Continued discussion of formulary templates currently being used
- IV. Submissions of testimony by interested parties and members of the public regarding formulary templates
- V. Recommendations for a standard formulary template to be submitted to the 2016 Legislature
- VI. Other business
- VII. Next meeting
- VIII. Adjournment

For further information, please contact Paul Yuen at (808) 586-3040.



Gordon I. Ito, Insurance Commissioner

Individuals who require special accommodations (e.g., sign language interpreter, large print, taped materials, wheelchair access, or parking for the disabled) may call Paul Yuen at (808) 586-2790 at least 4 working days prior to the meeting so that arrangements may be made.

FORMULARY ACCESSIBILITY WORKING GROUP
Insurance Division, Department of Commerce &
Consumer Affairs, State of Hawaii
www.hawaii.gov/dcca/ins

NOTICE OF PUBLIC INFORMATIONAL HEARING

DATE: Thursday, November 5, 2015
TIME: 2:00 p.m.
PLACE: Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

A G E N D A

Act 197 (H.B. No. 261, H.D.2, S.D. 2, C.D. 1) which became law on July 6, 2015, established the formulary accessibility working group to be administered by the State Insurance Commissioner. The purpose of the working group is to make recommendations for a standard formulary template to be used by insurers on their own respective websites.

The working group will address the following topics:

- I. Call to order; public notice
- II. Approval of minutes of 10/05/15 meeting
- III. Continued discussion of formulary templates currently being used
- III. Demonstrations by insurers of navigations of their formularies on their websites or discussions of screenshots of their existing formularies on their websites.
- IV. Submissions of testimony by interested parties and members of the public regarding formulary templates
- V. Recommendations for a response to be submitted to the 2016 Legislature
- VI. Other business
- VII. Next meeting
- VIII. Adjournment

For further information, please contact Paul Yuen at (808) 586-3040.



Gordon I. Ito, Insurance Commissioner

Individuals who require special accommodations (e.g., sign language interpreter, large print, taped materials, wheelchair access, or parking for the disabled) may call Paul Yuen at (808) 586-2790 at least 4 working days prior to the meeting so that arrangements may be made.

FORMULARY ACCESSIBILITY WORKING GROUP
Insurance Division, Department of Commerce &
Consumer Affairs, State of Hawaii
www.hawaii.gov/dcca/ins

NOTICE OF PUBLIC INFORMATIONAL HEARING

DATE: Monday, November 16, 2015
TIME: 1:00 p.m.
PLACE: Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

A G E N D A

Act 197 (H.B. No. 261, H.D.2, S.D. 2, C.D. 1) which became law on July 6, 2015, established the formulary accessibility working group to be administered by the State Insurance Commissioner. The purpose of the working group is to make recommendations for a standard formulary template to be used by insurers on their own respective websites.

The working group will address the following topics:

- I. Call to order; public notice
- II. Approval of minutes of 11/05/15 meeting
- III. Discussion on the proposed Report to the 2016 Legislature
- IV. Submissions of testimonies by interested parties and members of the public regarding the proposed Report
- V. Vote to approve the proposed Report or the proposed Report with amendments
- VI. Other business
- VII. Next meeting (if necessary)
- VIII. Adjournment

For further information, please contact Paul Yuen at (808) 586-3040.


Gordon I. Ito, Insurance Commissioner

Individuals who require special accommodations (e.g., sign language interpreter, large print, taped materials, wheelchair access, or parking for the disabled) may call Paul Yuen at (808) 586-2790 at least 4 working days prior to the meeting so that arrangements may be made.

MINUTES OF THE FORMULARY ACCESSIBILITY WORKING GROUP

Thursday, September 24, 2015
Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

Members Present: Gordon I. Ito (Insurance Commissioner and Working Group Chair), Dr. Christopher Flanders (Hawaii Medical Association), Jennifer Diesman (Hawaii Association of Health Plans/Hawaii Medical Service Association), Lee Ann Teshima (Professional and Vocational Licensing Division, DCCA/Board of Pharmacy), Cory Chun (American Cancer Society Cancer Action Network – Hawaii Pacific Region)

Member Excused: Dr. Virginia Pressler (Director of Health)

Others Present: Monica Ko and Andrew Zehnder (CVS Health) and Paul Yuen (Insurance Division)

I. Call to Order

Pursuant to written notice, the first meeting of the Formulary Accessibility Working Group (the "Working Group") was called to order and chaired by Gordon I. Ito, Insurance Commissioner, at 2:15 p.m.

The Working Group was established pursuant to Act 197 (H.B. No. 261, H.D.2, S.D. 2, C.D. 1) which became law on July 6, 2015. Act 197 requested the Insurance Commissioner to convene a working group to make recommendations for a standard formulary template to be used by insurers on their own respective websites and to serve as its chair.

II. Public Notice/Sunshine Law

The meeting was held pursuant to the public notice filed with the Lieutenant Governor's Office on September 15, 2015.

Commissioner Ito noted that while the Working Group was convened pursuant to Act 197, the Working Group does not fall within the statutory definition of a "board" as defined in the State's Sunshine Law (Chapter 92, Hawaii Revised Statutes). However, in the interest of promoting open government Commissioner Ito said the Working Group would follow the Sunshine Law. Discussions among members should occur in open hearing.

III. Introduction of Working Group Members

Act 197 specified that the Working Group be composed of the following:

- (1) Insurance Commissioner;
- (2) the Director of Health or designee;
- (3) A representative from the health care provider community;

- (4) A representative from the Board of Pharmacy;
- (5) A representative from the Hawai'i Association of Health Plans; and
- (6) A representative from the American Cancer Society Cancer Action Network – Hawai'i Pacific Region.

All of the members in attendance introduced themselves.

IV. Scope of Work and Deadlines

Act 197 directs the working group to make recommendations for a standard formulary template to be used by insurers on their own respective websites and requires the working group transmit a final report of its recommendations no later than 20 days prior to the convening of the 2016 Regular Session (December 25, 2015).

V. Discussion of formulary templates currently being used

Jennifer Diesman introduced Andrew Zehnder who gave a presentation of a tool that HMSA currently uses. The tool is member and plan specific and takes the member through different steps in figuring out the eventual cost of a specific drug. Key elements in determining the eventual cost were the type of drug, dosage strength, frequency of use, and type of health insurance plan being used. An additional feature was the notification to the member if prior authorization was needed before obtaining the drug. Ms. Diesman also distributed an HMSA Medical Specialty Drug List for review.

Discussion by members also noted that:

- A. Some members of the public had health savings accounts and that it would be difficult for them to access an insurer's formulary;
- B. Different insurers would build different formularies based on their needs and economic circumstances;
- C. Act 197 required use of "\$" categories which are different from what some insurers are currently using;
- D. Every FDA drug has to be on an "open" formulary which will then require insurers to each maintain a team to constantly monitor the formulary and update all changes to the formulary;
- E. That specialty and non-specialty drugs' prices fluctuate constantly;
- F. That for ACA purposes, a formulary must be created so that everyone can come in and see what's on it; and
- G. That while the spirit of Act 197 makes sense, the implementation of all its requirements is problematic.

It was discussed and agreed upon by members that invitations be extended to smaller health insurance plans to attend the next meeting

VI. Submission of Testimony by Interested Parties and Members of the Public

No written testimony was presented by interested parties or members of the public at the meeting.

VII. Scheduling of Next Meeting

The next meeting will take place on Thursday, October 1, 2015, at 2 p.m. at this same location.

VIII. Adjournment

The meeting was adjourned at 2:50 p.m.

MINUTES OF THE FORMULARY ACCESSIBILITY WORKING GROUP

Thursday, October 1, 2015
Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

Members Present: Gordon I. Ito (Insurance Commissioner and Working Group Chair), Dr. Christopher Flanders (Hawaii Medical Association), Jennifer Diesman (Hawaii Association of Health Plans/Hawaii Medical Service Association), Lee Ann Teshima (Professional and Vocational Licensing Division, DCCA/Board of Pharmacy), Rebecca Kang, R.N. (Director of Health designee)

Member Excused: Cory Chun (American Cancer Society Cancer Action Network – Hawaii Pacific Region)

Others Present: Monica Ko and Andrew Zehnder (CVS Health), John Kirimitsu (Kaiser Permanente), Michael Madix (Family Health Hawaii), and Paul Yuen (Insurance Division)

I. Call to Order

Pursuant to written notice, the second meeting of the Formulary Accessibility Working Group (the "Working Group") was called to order and chaired by Gordon I. Ito, Insurance Commissioner, at 2:09 p.m.

II. Approval of minutes of 9/24/15 meeting

A draft of the proposed minutes was circulated prior to this meeting. One deletion was made on the second page, section V., Discussion of Formulary Templates Currently Being Used. The last sentence of the first paragraph was corrected to read "Ms. Diesman also distributed an HMSA Medical Specialty Drug List for review."

There was a motion to approve the proposed minutes as amended, seconded, and approved by the Working Group.

III. Continued Discussion of Formulary Templates Currently Being Used

Kaiser:

- Posts III and IV tiers and federal formularies;
- Notes that with hundreds of plans, that it would be difficult to immediately post pricing changes;
- Has its committee meet every month and posts updates quarterly;
- Changes are made throughout the year;
- Posts a Hawai`i specific formulary and while it doesn't list prices, clients may call for pricings;
- Cannot post pricings on its website;

FORMULARY ACCESSIBILITY WORKING GROUP

- Has a separate formulary for the ACA; and
- Would have to build a system to comply with Act 197.

Discussion by the Working Group also discussed the following issues:

- That the intent of Act 197 was to inform consumers and to make health information more transparent;
- That limited English and computer literacy skills may prevent the clients from accessing formularies;
- That target groups are not clearly identified;
- That drug prices change every day;
- That the volatility of drug prices render information useless in a short period of time;
- That the changes in drug prices probably will not accurately reflect true drug costs from the time the formulary is accessed to when drugs are purchased;
- That all insurers will need to have a static template to comply with Act 197;
- That the "\$" category is not beneficial to consumers as drugs vary day-to-day from plan-to-plan and a range might be more appropriate;
- That a formulary shows the total cost for a drug and costs for different drugs cannot be added together on the formulary;
- That insurers' templates differ from the CMS template;
- That clients will have to call insurers directly if they want to check on a drug not on the formulary;
- That there might be an economic and technological burden on insurers in creating formularies which have to configure hundreds of plans with innumerable variables; and
- That the State should consider building and upkeeping a formulary site for insurers to use;
- That manufacturers issue coupons for their clients to use.

It was also discussed that those affected insurers not present be reinvited to attend the next meeting and that the Working Group be prepared to discuss recommendations to be made for a standardized template.

IV. Submissions of testimony by interested parties and members of the public regarding formulary templates.

V. Recommendations for a standard formulary template to be used by insurers on their own respective websites.

VI. Scheduling of Next Meeting

The next meeting will take place on Thursday, October 15, 2015, at 2 p.m., location TBA.

VIII. Adjournment

The meeting was adjourned at 2:55 p.m.

MINUTES OF THE FORMULARY ACCESSIBILITY WORKING GROUP

Thursday, October 15, 2015
Prince Lelei`ohoku Conference Room
King Kalakaua Building
335 Merchant Street, 3rd Floor
Honolulu, HI 96813

Members Present: Gordon I. Ito (Insurance Commissioner and Working Group Chair), Jennifer Diesman (Hawaii Association of Health Plans/Hawaii Medical Service Association), Lee Ann Teshima (Professional and Vocational Licensing Division, DCCA/Board of Pharmacy), Joan Takamori (Director of Health designee), and Cory Chun (American Cancer Society Cancer Action Network – Hawaii Pacific Region)

Member Excused: Dr. Christopher Flanders (Hawaii Medical Association)

Others Present: Andrew Zehnder (CVS Health), Barbara Kashiwabara and Phyllis Dendle (Kaiser Permanente), James Nelson (Hawaii Public Policy Advocates), and Paul Yuen (Insurance Division)

I. Call to Order

Pursuant to written notice, the second meeting of the Formulary Accessibility Working Group (the "Working Group") was called to order and chaired by Gordon I. Ito, Insurance Commissioner, at 2:03 p.m.

II. Approval of minutes of 10/01/15 meeting

A draft of the proposed minutes was circulated prior to this meeting. There was a motion to approve the proposed minutes, seconded, and approved by the Working Group.

III. Continued Discussion of Formulary Templates Currently Being Used

HMSA provided a "Comparison of ACA Regulatory Guidance & Proposed State Law: Formulary Publication" and "Formulary Posting: Federal v. State Requirements" for the WG reference, discussion, and consideration.

The WG members' and attendees' made the following observations:

- There is no ACA template, that there is only federal guidance on the creation of templates;
- That Act 197 (2015) requires all health insurers to be in compliance with the Act's requirements;
- That the Act's requirement for a "price" category is problematic since the prices on drugs change frequently, without notice, and are impacted by clients' plan coverages;
- That a client's determination of the price of a drug through the formulary is only for that period of time and may not apply when the client actually purchases the drug in the future;
- That the elderly will probably have a difficult time accessing, understanding, and navigating formularies on insurers' websites;

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- That, currently, non-members of certain health plans may look at formularies but no prices are attached;
- That Texas passed a similar bill to Act 197 but no WG was created. The requirements in the bill starts in 2017. Cory Chun stated that he would try and get a copy of the bill for the WG;
- Kaiser is currently working on posting changes within 30 days. Posting changes within 14 days as required by Act 197 would require changes in its operations;
- Two options for the WG in its approach to meet Act 197's directive:
 1. Recommend to the Legislature that health insurers just comply with the ACA and work with existing tools; or
 2. Develop a template;
- That consumers would be very confused if health insurers had different formularies; and
- That standardizing the most popular formularies and not others, as a compromise, would not work.

HMSA stated that it preferred not to have a standardized template, that it would be a step backward. HMSA requires a team to make a 72 hour turnaround on all drug changes since it has an open formulary.

Kaiser stated that it would take time, work and money in developing a template different from what it has

IV. Submissions of testimony by interested parties and members of the public regarding formulary templates.

V. Recommendations for a standard formulary template to be used by insurers on their own respective websites.

It was agreed upon that for the next meeting insurers would either bring in screen shots of their existing formularies or be allowed to demonstrate their formularies through a computer-projector hook-up to the WG. The screen shots might be included in the report to the Legislature.

Notice of the next meeting will be sent to all domestic health insurers.

VI. Scheduling of Next Meeting

The next meeting will take place on Thursday, November 5, 2015, at 2 p.m., in The Queen Kapi`olani Conference Room, King Kalakaua Building , 2nd floor.

VIII. Adjournment

The meeting was adjourned at 2:56 p.m.

MINUTES OF THE FORMULARY ACCESSIBILITY WORKING GROUP

Thursday, November 5, 2015
Queen Kapi'olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

Members Present: Paul Yuen (on behalf of Insurance Commissioner and Working Group Chair), Jennifer Diesman (Hawaii Association of Health Plans/Hawaii Medical Service Association), Lee Ann Teshima (Professional and Vocational Licensing Division, DCCA/Board of Pharmacy), Joan Takamori (Director of Health designee), and Cory Chun (American Cancer Society Cancer Action Network – Hawaii Pacific Region)

Member Excused: Dr. Christopher Flanders (Hawaii Medical Association)

Others Present: Barbara Kashiwabara (Kaiser Permanente), James Nelson (Hawaii Public Policy Advocates), Chen Dongping and Ann Le Lievre (Insurance Division)

I. Call to Order

Pursuant to written notice, the meeting of the Formulary Accessibility Working Group (the "Working Group") was called to order and chaired by Paul Yuen at 2:04 p.m.

II. Approval of minutes of 10/15/15 meeting

A draft of the proposed minutes was circulated prior to this meeting. There was a motion to approve the proposed minutes, seconded, and approved by the Working Group.

III. Demonstration on navigating Kaiser Permanente's formulary on its website

Ms. Kashiwabara displayed and commented on Kaiser Permanente's (KP) Hawaii Marketplace Drug Formulary through its website at KaiserPermanente.org. Key highlights are as follows:

- KP membership is not required in order to access the formulary.
- The formulary lists over 4,000 drugs and is sorted alphabetically by the generic drug names. Also provided are the most common brand names.
- The drugs are categorized into tiers which design is not merely about cost but considers other factors as well.
- At minimum, the formulary is updated every month due to CMS requirements.
- If a particular drug is not on the list, KP provides contact information to request staff to look into the status of the drug.

Ms. Diesman said HMSA's formulary may also be reviewed by nonmembers; however, the drug prices are only be available to its members because they are adjusted according to the members' plans.

IV. Continued discussions of formulary templates

Discussion on the Pricing Structure

- For KP, it would be difficult to include the drug prices on its formulary with thousands of drugs and various dosages listed on the formulary. The bill requires posting within 72 hours for new or deleted drugs and 14 days for changes. Also, even within the same plan, there could be different benefits which would result in different costs.
- HMSA has an open formulary which changes constantly; the posting requirements causes concerns.
- It would be helpful to have a broad-enough range, especially with specialty drugs, so it would not require constant changes to the formulary.
- The intent of the bill is to require the display of drugs with the range of costs so people can make informed decisions on choosing a plan and treatment options.
- In regards to the dollar amount range, the bill mentions "cost sharing" which is interpreted to mean "out-of-pocket" costs.
- Medicare already uses a built-in calculator to determine prices by using information inputted into its formulary. This mechanism is not yet available to the insurers.

Discussion on Standardized Template

- If it is recommended to use a standardized template, insurers may have to start from scratch to create its formulary.
- It is feasible to add the range of dollar signs to the current formularies.
- It would be better to define required elements rather than standardize the template.
- Formularies can be difficult to understand, so an explanation on how to use it would be helpful.

Recommendations for the Working Group Report

- The Working Group recommends against requiring a standardized template. Each insurer should be allowed to maintain its own formulary and include the range of costs.
- There should be standard language, similar to a legend, to explain the formulary and to include contact information. Joan Takamori, Department of Health, agreed to draft the standard language.

V. Submissions of testimony by interested parties and members of the public regarding formulary templates.

None.

VI. Scheduling of Next Meeting

The next meeting will take place on Monday, November 16, 2015, at 1 p.m., in The Queen Kapi`olani Conference Room, King Kalakaua Building , 2nd floor.

VIII. Adjournment

The meeting was adjourned at 2:47 p.m.

MINUTES OF THE FORMULARY ACCESSIBILITY WORKING GROUP

Monday, November 16, 2015
Queen Kapi`olani Conference Room
King Kalakaua Building
335 Merchant Street, 2nd Floor
Honolulu, HI 96813

Members Present: Gordon I. Ito (Insurance Commissioner and Working Group Chair), , Jennifer Diesman (Hawaii Association of Health Plans/Hawaii Medical Service Association), Lee Ann Teshima (Professional and Vocational Licensing Division, DCCA/Board of Pharmacy), Joan Takamori, A.P.R.N. (Director of Health designee), Cory Chun (American Cancer Society Cancer Action Network – Hawaii Pacific Region)

Member Excused: Dr. Christopher Flanders (Hawaii Medical Association)

Others Present: John Kirimitsu and Barbara Kashiwabara (Kaiser Permanente), Jacee Mikulanec (Hawaii Medical Service Association), and Paul Yuen (Insurance Division)

I. Call to Order

Pursuant to written notice, the fifth meeting of the Formulary Accessibility Working Group (the "Working Group") was called to order and chaired by Gordon I. Ito, Insurance Commissioner, at 1:03 p.m.

II. Approval of minutes of 11/05/15 meeting

A draft of the proposed minutes was circulated prior to this meeting. There was a motion to approve the proposed minutes, seconded, and approved by the Working Group.

III. Discussion on the proposed Report to the 2016 Legislature

A draft of the proposed Report was circulated among the Working Group members and interested parties prior to the Meeting. The proposed Report was considered and is amended to read as follows:

“RECOMMENDATIONS

After much discussion and deliberation, the Working Group makes the following recommendations:

1. That health plans’ formularies contain the following uniform statement to assist consumers in making informed decisions in regards to drug costs.

“Your costs

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The amount you pay for a covered drug will depend on your coverage tier. Each covered drug is in one of several tiers. Each drug's tier amount may be different. Each drug tier may have a different copayment or coinsurance amount.

Please refer to your Annual Evidence of Coverage for additional information. To find out the cost of your drugs, you may contact_____.”

2. In recognizing that health plans may have an open or closed formulary and that health plans have built and are using different formularies based on their own needs and economic circumstances, the Working Group does not recommend mandating that health plans use a standard formulary.
3. That health plans be allowed to meet the requirements of the Act without using a standard formulary.”

IV. Submissions of testimonies by interested parties and members of the public regarding formulary templates.

None

V. Vote to approve the proposed Report or the proposed Report with Amendments

There was a motion to approve the proposed Report with the Amendments listed in Paragraph III, seconded, and approved by the Working Group.

VI. Other Business

There was a motion to accept the recorded minutes of this meeting as the final minutes, seconded, and approved by the Working Group. The Chair will circulate the final minutes for review.

VII. Next Meeting (if necessary)

None

VIII. Adjournment

The meeting was adjourned at 1:43 p.m.