

STATE INNOVATION WAIVER TASK FORCE
MINUTES

Date Thursday, August 6, 2015
Time 2:00 p.m.
Place DCCA, Queen Liliuokalani Meeting Room
335 Merchant St., Honolulu, HI 96813

Attendance State Innovation Waiver Task Force Members - Present

Beth Giesting, Chair, Governor's Office
Pono Chong, Chamber of Commerce of Hawaii
Joan Danieleley, Senate Health Care Appointee
Jennifer Diesman, HMSA
Bryan FitzGerald, OIMT
Robert Hirokawa, HPCA
David Hong, House Small Business Appointee
Daniel Jacob, Office of the Attorney General
Royden Koito, DLIR
Carole Richelieu, Insurance Division
Christine Sakuda, Hawaii HIE
Leslie Tawata, MedQUEST

State Innovation Waiver Task Force Members - Absent

Lorrin Kim, DOH
Jeff Kissel, Hawaii Health Connector
Derek Mizuno, EUTF
Paul Young, HAH
Paula Yoshioka, Queen's Health System

Members of public who spoke

Laurel Johnston
Phyllis Dendle

Call to order

The meeting was called to order and roll taken by Chair Giesting at 2:02 p.m.

Public Comment

There was no opening public comment.

Review of minutes of July 23, 2015

There was no public comment. Members Richelieu moved and Danieleley seconded a motion to approve the minutes of July 23, 2015 as circulated. The motion was unanimously approved.

Creation of Permitted Interaction Groups

Members FitzGerald moved and Richelieu seconded a motion to authorize a PIG to identify and contribute information and materials needed to develop a waiver and to report back to the task force. Members are Chong, Danieleley, Diesman, FitzGerald, Giesting, Hirokawa, Jacob, Koito, Richelieu, and Young. There was no public comment and the motion was unanimously approved.

ACA Waiver Federal and Legislative Updates

There were no updates or public comment.

Decision-making on ACA Waiver Development Next Steps PIG report.

The following summary of the PIG report was presented by Chair Giesting:

Waivable ACA Section	Hawaii Proposal
<p>§1301 QUALIFIED HEALTH PLAN</p> <ul style="list-style-type: none"> • Definition and certification of QHP • Metal levels • Co-ops and multi-state plans • Qualified direct primary care medical home plans • Variation based on rating area • Self-insured and MEWAS (multiple employer welfare arrangements) 	<ul style="list-style-type: none"> • Waive variation based on rating area. Chair Giesting noted that it may be advisable to remove this from our waiver proposal as it is already an option for states.
<p>§1302 ESSENTIAL HEALTH BENEFITS</p> <ul style="list-style-type: none"> • Definition and establishment of EHB • Limitation on cost-sharing • Limitation on deductibles • Metal levels actuarial value • Catastrophic plans • Enrollment eligibility • Child-only plans 	<ul style="list-style-type: none"> • Retain EHB • Define coverage levels as 7A/7B for small business. (SHOP to be waived. Employers subject to Prepaid, which uses 7A and 7B, not metal levels)
<p>§1303 SPECIAL RULES</p> <ul style="list-style-type: none"> • Definition and rules on abortion services 	<ul style="list-style-type: none"> • No changes
<p>§1304 DEFINING LARGE AND SMALL EMPLOYERS</p> <ul style="list-style-type: none"> • Hawaii currently defines “small” as 50 or fewer • ACA says “small” will be up to 100 January 2016 • Aggregation rules (single employer) • Defining “large” or “small” for employer not in existence previous year • Predecessor employers • Continued participation in exchange of growing small employer. 	<ul style="list-style-type: none"> • Waive increase to 100 and keep definition of “small employer” as 50 or fewer – <u>BUT</u> only if the increase to 100 has not gone into effect before waiver in January 2017 • Waive continued participation to be consistent with waiving SHOP
<p>§1311 AFFORDABLE CHOICES OF HEALTH BENEFIT PLANS</p> <ul style="list-style-type: none"> • Individual health insurance exchange • Small Business Health Options Program (SHOP) exchange • Identifies eligible entities in state authorized to carry out exchange activities 	<ul style="list-style-type: none"> • Waive SHOP • Waive specification of eligible entities to give state more flexibility in carrying out SSBM responsibilities
<p>§1312 CONSUMER CHOICE</p> <ul style="list-style-type: none"> • Qualified employers may allow employees choice among plans in SHOP exchange • Single risk pool for individual, small group, and merged markets • Continued operation of market outside exchange • Continued state benefits requirement • Voluntary enrollment in exchange 	<ul style="list-style-type: none"> • Waive requirement for small businesses to offer employee choice via SHOP. (Employers may allow employees choice under Prepaid. Trade-off is that Hawaii small businesses coverage meets a higher standard than required by ACA.) • Waive “qualified employer offering coverage on exchange” (since we propose to waive SHOP)

Waivable ACA Section	Hawaii Proposal
<ul style="list-style-type: none"> • Individuals allowed to enroll in any plan • Members of Congress/staff in exchange • No penalty for transferring coverage out of exchange • Enrollment through agents and brokers • Access limited to citizens and lawful residents • Incarcerated individuals excluded • Qualified employer offering coverage on exchange • Access limited to lawful residents 	
<p>§1313 FINANCIAL INTEGRITY</p> <ul style="list-style-type: none"> • Describes financial management and oversight for exchange 	<ul style="list-style-type: none"> • No changes
<p>§1402/36B REDUCED COST-SHARING FOR INDIVIDUALS ENROLLING IN QUALIFIED HEALTH PLANS</p> <ul style="list-style-type: none"> • Defines eligibility and determination of benefits 	<ul style="list-style-type: none"> • Request funds in lieu of small business tax credit. Such funds to be used for premium relief for qualified small businesses.
<p>IRS Code §4980H SHARED RESPONSIBILITY FOR EMPLOYERS REGARDING HEALTH COVERAGE</p> <ul style="list-style-type: none"> • Defines responsibilities for coverage for large employers 	<ul style="list-style-type: none"> • No changes

Member Koito requested that the task force give further consideration to fully retaining the EHB. He noted that three benefits – prescription drug and children’s dental and vision – are not required under Prepaid. DLIR is concerned that these could contribute to escalation in the cost of coverage for small businesses, which pay almost all of premium costs for employees. Discussion included the following points:

- Employers who bought ACA plans are already covering all of the EHB. Waiving the requirement would seem like a “take-back” by employees.
- Can benefits be added as a state mandate but separate from Prepaid so that employers will provide them but have option whether or not to pay for them?
- If prescription drug were not retained, employees would have no option to purchase that coverage as it is not a benefit that can be purchased separate from medical coverage.
- Requesting a waiver or variation in EHB might complicate Hawaii’s waiver request and negotiations.
- The actuarial value of Prepaid without the EHB should still pass the test for actuarial value but possibly not scope of benefits.
- PIG should gather more information about number of employers who do purchase the extra benefits and ask SHERM, the Chamber of Commerce, or the Employers Council if they know to what extent the benefits are being paid for by employers.

Public comment:

- Phyllis Dendle contributed to the EHB discussion with her knowledge about small business coverage.
- Laurel Johnston shared with the group that, in discussions with DHHS, there is an awareness that Hawaii plans to apply for a waiver, that Hawaii will probably be the first state to submit a proposal, and that there will be heightened scrutiny of the proposal. At the same time, HHS understands Hawaii’s unique circumstance and would not want to hinder our successful history of coverage. It will help us to ensure that our proposal is as faithful to the tenets of the ACA as possible. EHB may be a thorny waiver issue for HHS but also should get public input. We will be working with our congressional delegation to ensure they understand the issues and hope to get more guidance from HHS soon.

Members Koito moved and Richelieu seconded a motion to adopt all the positions on retaining or waiving as presented with the exception of retaining the EHB. The question of whether to fully retain or modify the EHB will be taken up by the PIG to gather more information and will be presented at up-coming public forums. Recommendations will be brought back to the task force at a future date. The motion was unanimously adopted. Chair Giesting reminded the task force that our work is to present recommendations to the public, the Legislature, and the Administration. What is ultimately proposed and agreed to in negotiations with HHS and Treasury are beyond our control.

Draft Report to Legislature

Chair Giesting noted that the report is virtually done and sought advice on whether or not to submit it as an interim report or hold it until after public hearings are completed. The task force advised the latter. Chair Giesting invited any additional edits members would like to make but will not finalize until closer to the end of the process.

Next Meetings

Chair Giesting announced that the next Task Force meeting will be as needed.

Mahalo to Members

Laurel Johnston communicated her own and the Governor's thanks for the time and work contributed by the task force. Chair Giesting echoed the sentiment and acknowledged the work of staff in addition to members.

Adjournment

The meeting was adjourned at 3:15 p.m.