

**GOVERNMENT OF GUAM  
1993 MEDICAL/DENTAL RATES**

CLASS	MEDICAL 1992			MEDICAL 1993			DENTAL 1993					
	GOV	EMP	TOTAL	GOV	EMP	TOTAL	REGULAR OPTION			HI OPTION		
FHP	GOV	EMP	TOTAL	GOV	EMP	TOTAL	GOV	EMP	TOTAL	GOV	EMP	TOTAL
ACTIVE 1	27.57	30.29	57.86	33.08	30.57	63.65	5.71	3.82	9.53			
BI-WEEKLY 2	55.14	118.44	173.58	66.17	124.77	190.94	11.43	14.29	25.72			
3	82.72	90.86	173.58	99.25	91.69	190.94	17.14	8.58	25.72			
RETIREE 1	29.87	32.81	62.68	35.84	33.11	68.95	6.19	4.13	10.32			
BI-MONTHLY 2	59.74	128.31	188.05	71.68	135.18	206.86	12.38	15.49	27.87			
3	89.61	98.44	188.05	107.52	99.34	206.86	18.57	9.30	27.87			
STAYWELL												
ACTIVE 1	27.57	19.29	46.86	33.08	20.76	53.84	5.71	4.57	10.28			
BI-WEEKLY 2	55.14	86.07	141.21	66.17	96.08	162.25	11.43	17.66	29.09			
3	82.72	58.49	141.21	99.25	63.00	162.25	17.14	11.95	29.09			
RETIREE 1	29.87	20.89	50.76	35.84	22.49	58.33	6.19	4.95	11.14			
BI-MONTHLY 2	59.74	93.24	152.98	71.68	104.09	175.77	12.38	19.13	31.51			
3	89.61	63.37	152.98	107.52	68.25	175.77	18.57	12.94	31.51			
GMHP												
ACTIVE 1	27.57	46.42	73.99	33.08	47.27	80.35	5.71	6.49	12.20			N/A
BI-WEEKLY 2	55.14	164.15	219.29	66.17	171.98	238.15	11.43	5.86	17.29	11.43	16.43	27.86
3	82.72	136.57	219.29	99.25	138.90	238.15	17.14	0.15	17.29	17.14	10.72	27.86
RETIREE 1	29.87	50.29	80.16	35.84	51.21	87.05	6.19	7.03	13.22			N/A
BI-MONTHLY 2	59.74	177.83	237.57	71.68	186.32	258.00	12.38	6.36	18.74	12.38	17.80	30.18
3	89.61	147.96	237.57	107.52	150.48	258.00	18.57	0.17	18.74	18.57	11.61	30.18

CLASS 1: EMPLOYEE OR RETIREE WITH NO DEPENDENTS.

CLASS 2: EMPLOYEE OR RETIREE WITH ONE OR MORE DEPENDENTS.

CLASS 3: GOVERNMENT-EMPLOYED(OR RETIRED) HUSBAND AND WIFE, WITH OR WITHOUT DEPENDENTS.



JOSEPH F. ADA  
Governor

FRANK F. BLAS  
Lieutenant Governor

DEPARTMENT OF

# REVENUE & TAXATION

GOVERNMENT OF GUAM

JOAQUIN G. BLAZ, Director • V.M. CONCEPCION, Deputy Director

March 11, 1993

Hon. Ben C. Pangelinan, Chairman  
Committee on Economic-Agricultural  
Development and Insurance  
Twenty-Second Guam Legislature  
Agana, Guam 96910

Re: Bill No. 327

Dear Mr. Chairman and Members of the Committee:

My name is Joaquin G. Blaz. I am Director of the Department of Revenue and Taxation and the Ex-Officio Insurance Commissioner of Guam. I would like to take this opportunity to submit my testimony on Bill 327.

Allow me to start by saying that Governor Ada supports any legislation which would allow rebating provided that the legislation is not discriminatory.

Throughout the United States, standards have been set for the regulation of rates. These standards are: "Rates shall not be excessive or inadequate, nor shall they be unfairly discriminatory". ( Section 43255 of the Government Code of Guam).

In order to enforce unfair discrimination under state rating laws, anti-rebating laws were enacted in all 50 states. Legislators understood that it makes little sense to require insurers to charge all persons within the same class at the same rate, and then to allow insurers or insurers' agents to adjust the price at the point of sale or after the sale.

An example of a specific law that prohibits unfair discrimination is Public Law 20-211. This law was unanimously approved on August 22, 1990 by the Twentieth Guam Legislature. This law mandates that the GovGuam contribution for health insurance shall be uniform within each class. Further, it decrees that "a retired employee contributes no more than an active employee who is otherwise in the same class".

In order to ascertain the effective premium contribution of GovGuam for Staywell subscribers who get refunds, the maximum amount of the refund must be deducted from the total amount paid by each class of employee. The result shows that GovGuam ended up

bearing most of the burden of Staywell coverage after the refunds. The effects are demonstrated in Exhibit "A".

Since GovGuam is contributing at least one half of the premiums for Staywell plan subscribers, should GovGuam not share proportionately in the amount of the refunds? Why should the insured receive the entire refund?

I have reviewed Bill 327. It is discriminatory. It allows rebates only in health insurance. It does not allow rebate in life insurance or any other classes of insurance.

I firmly believe that Bill 327 it is contrary to the uniformity and fairness provision of Public Law 20-211 and the discrimination provisions of Section 43386 of the Government Code of Guam.

I would like to direct the attention of this Committee to the fact that in the 1992 GovGuam Health Negotiation Committee, Staywell submitted a report that the Staywell health plan lost \$2 Million in servicing GovGuam employees in 1991. The same report showed that Staywell gave \$2 Million in refunds in 1991. Based on this report, Staywell requested for a 45% increase of its rates and was able to negotiate a 16% rate increase for the fiscal year 1992. If Staywell did not give the \$2 Million refunds in 1991, it would have had no reason to request or to negotiate for a rate increase.

Staywell, in its advertisement in the Pacific Daily News dated March 8, 1993, represented that it gave \$3.5 Million in refunds for the year 1992. It is almost certain that Staywell will request the GovGuam Health Negotiation Committee for a rate increase to finance the refunds that it gave in 1992.

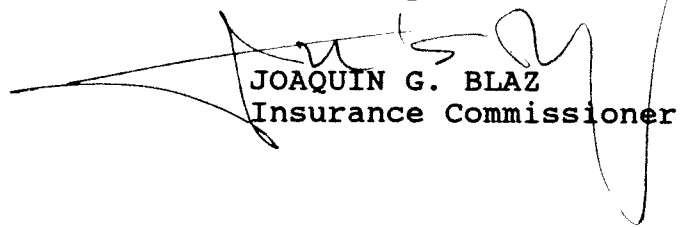
In the United States and in Guam refunds are only allowed when a policy is canceled. The refund is for the unused premium. The only other exception which allows the giving of refunds is in the sharing of profits when it is so specified in a policy called a participating policy. If such an insurer does not earn any profit, it can not and should not give any refunds. Should an insurer be allowed to give refunds when it does not have profits to allow for the refunds? To allow such practice to continue is to allow the financial condition of such an insurer to be in jeopardy.

Zurich Insurance (Guam) Inc., the insurer of the Staywell Plan, and D.B. Davis and Associates, general agent of Zurich and administrator of the Staywell plan, have requested an administrative hearing before the Department and have filed a lawsuit in court questioning my order dated February 24, 1993. Presumably, the question of the legality of my order can be resolved either in an administrative hearing or in court.

If my order is improper or without any legal basis, why is Staywell lobbying so hard to repeal the anti-rebating statute? If as Staywell says, its rebate feature is not against the law, Bill 327 is unnecessary.

I respectfully submit that Bill 327 in its present form would not resolve the question of unfair discrimination in existing statutes.

Sincerely,



JOAQUIN G. BLAZ  
Insurance Commissioner

1992 STAYWELL PLAN DETAIL  
OF EMPLOYEE/GOVERNMENT OF GUAM  
CONTRIBUTION & REFUND

<u>EMPLOYEE CATEGORY</u>	<u>(1) PAY PERIOD CONTRIBUTION</u>	<u>(2) MONTHLY CONTRIBUTION</u>	<u>(3) PERCENTAGE OF CONTRIBUTION</u>	<u>(4) YEARLY CONTRIBUTION</u>	<u>(5) PERCENTAGE OF CONTRIBUTION</u>	<u>(6) PLAN DEDUCTIBLE AMOUNT</u>	<u>(7) PLAN MAXIMUM REFUND</u>	<u>(8) YEARLY AFTER REFUND TO EMPLOYEE</u>	<u>(9) PERCENTAGE OF CONTRIBUTION</u>
CLASS I EMPLOYEE GOV/GUAM	\$20.76	\$ 44.98 71.67	39% 61%	\$ 539.76 860.04	39% 61%	\$ 580.13	\$ 464.00	\$ 75.76 860.04	8% 92%
TOTAL		\$116.65	100%	\$1,399.80	100%			\$ 935.80	100%
CLASS II EMPLOYEE GOV/GUAM	\$96.08	\$208.17 143.37	59% 41%	\$2,498.04 1,720.44	59% 41%	\$2,005.00	\$1,604.00	\$ 894.04 1,720.44	34% 66%
TOTAL		\$351.54	100%	\$4,218.54	100%			\$2,614.48	100%
CLASS III EMPLOYEE GOV/GUAM	\$63.00	\$136.50 215.04	39% 61%	\$1,638.00 2,580.48	39% 61%	\$2,005.00	\$1,604.00	\$ 34.00 2,580.48	1% 99%
TOTAL		\$351.54	100%	\$4,218.48	100%			\$2,614.48	100%

EXHIBIT "A"

March 9, 1993

Dear Senators:

My name is Donald B. Davis and I am the StayWell Plan administrator. I am here to testify in favor of Bill #327.

The health care industry on Guam is very competitive. I expect that other health plan representatives and the Director of Revenue and Taxation will tell you why StayWell's refund program should be terminated. I am familiar with most of these arguments as I have been hearing them for some time now. For example:

**1. "The refunds are a rebate and are illegal."**

My response to that is that the courts of several states, including Florida and California, permit rebates of premiums. The position of these states is basically that rebating a portion of an insurance premium is a form of discount and encourages competition which benefits the consumers. In truth anti rebating laws often serve as a hidden form of price fixing that benefits the insurance carriers.

Another allegation is that the StayWell refund is an unfair marketing ploy designed to attract healthy members and to shift the burden of unhealthy persons to other health insurers.

In truth, the StayWell refund is not a rebate that is given to everyone. It is an incentive and a valid cost containment philosophy that places responsibility of a person's life style and their health where it belongs..... with the patient.

It encourages the patient to take responsibility for themselves while preserving the freedom of choice to select any physician or hospital.

The refund is a motivator that must be earned. Critics call it a rebate because to interpret it as such implies something bad. The StayWell refund has been "clearly" specified, promised and provided for in the policy since 1982. There has been nothing hidden or under the table about StayWell's refund.

The StayWell philosophy encourages the patient to take responsibility for their lifestyle and their health. With this responsibility our members are free to see any physician at

any hospital anywhere in the world.

Blue Cross/Blue Shield, has found that nearly 50% of all outpatient physician/patient contacts are for very minor concerns which do not require the services of a physician. Things like minor colds, the aches and pains of the weekend sports enthusiast and an excuse to justify absence from work are examples of wasted utilization.

The StayWell philosophy addresses these types of abuse and places the member in a position of responsibility with freedom of choice. It does this through the use of the refund.

Our members have an incentive to review their own use of medical care, and to review and verify that they are being billed only for services that they have received. Frequently our members have advised us of erroneous billings.

Our competitors have a different philosophy, that of an HMO with its gatekeeper and early entry for minor illness or the philosophy of an indemnity insurance plan with its large deductibles at time of medical care.

Our method of cost containment enlists the active help of our members by motivating them to be conscientious consumers. It motivates them to ask themselves **"Is this trip to the doctor really necessary"**.

Allegations that StayWell attracts only the healthy are mistaken. Open heart surgeries alone last year accounted for more than \$1,000,000 in claims paid. Off island claims for 1992 were in excess of \$3,500,000, and more than 50 members had claims in excess of \$20,000 .

We serve our members by allowing them the freedom to select the health care provider that they think will best serve their needs. We don't avoid risk, we manage it in partnership with our members.

We don't look for ways to restrict or deny coverage to our members, we encourage them to seek out the best quality medical care in the world when they need it. The benefits of StayWell to its members are freedom of choice, excellent medical coverage, and low cost. The refund which motivates patient responsibility makes it possible for StayWell to provide the benefits listed above.

Who would benefit if Mr. Blaz's viewpoint with his interpretation dominates?

**Who Would Benefit?**

**The Government of Guam?**

I don't think so, for the past 11 years, StayWell has managed to maintain the lowest premium of any plan offered to GovGuam employees because of the members vested interest in their own health care utilization.

**Who Would Benefit?**

Our members who have incentives to take responsibility for their health and to contain costs and have received refunds due to their taking this responsibility and who would lose these refunds? I don't think so.

**Who Would Benefit?**

The general public who benefits from competition and the diversity of a different and effective philosophy aimed at containing medical costs. I don't think so.

**Who would Benefit?**

The economy of Guam which would lose the \$3,500,000 which StayWell pumped back into the economy through the refunds paid to its members last year. I don't think so.

**Who would benefit?**

Our competitors ? I think so.

**Who Would Benefit?**

**What is this really all about? After 12 years I leave this point open for you to consider.**

Bill 327 will simply clarify a mistaken interpretation. Bill 327 will recognize what 11 years of StayWell has demonstrated over three administrations and five legislatures.

**Individual responsibility of medical care is a valid cost containment philosophy that benefits StayWell members, employers, the general consumer and the Government of Guam. On behalf of our 27,000 members, I urge you to pass this bill without delay.**



## StayWell Statistics

### StayWell Membership

1990	13,492 members,	1991	18,323 members
1992	23,652 members,	1993	27,242 members

### GovGuam StayWell Membership

	Employees	Dependents	% of enrolled govt. employees
1990	3729	5674	37%
1991	4522	7027	44%
1992	5590	8796	51%
1993	6152	9853	60%

### Single to Family Ratio:

			Average family size:
1990	52% families	48% singles	4.25
1991	52% families	48% singles	4.15
1992	55% families	45% singles	4.19
1993	57% families	43% singles	4.13

### Age Statistic

31% of all GovGuam StayWell members are over the age of 45, only 15% of the population of Guam is over the age of 45.

27% of all participating retirees are enrolled under StayWell

10% of StayWell members use the Physical Exam benefit each year.

### Claim Statistics

1988/89 91% of all members made claims against the plan. Total claims paid was \$1,981,459 refunds paid amounted to \$759,145.

1989/90 92% of all members made claims against the plan. Total claims paid was \$4,373,987. Refunds paid amounted to \$1,271,454.

1990/91 87% of all StayWell members made claims against the plan. The total claims paid was \$6,509,288. Refunds paid amounted to \$2,100,000.

1991/92 90% of all StayWell members made claims against the plan. The total claims paid was \$11,500,000. Refunds paid amounted to \$3,500,000.

# **FHP**<sup>®</sup>

**HEALTH CARE**

March 11, 1993

Senator Vicente C. Pangelinan  
Chairman, Committee on Economic Agricultural Development and  
Insurance  
155 Hesler St.  
Agana, Guam 96910

Dear Senator Pangelinan:

My name is Margaret Van Meter. I am the Regional Vice President and General Manager for the Asia Pacific Region of FHP., Inc.

FHP is a Federally Qualified Health Maintenance Organization. Our company is providing managed care to over 800,000 members company wide. We are a publicly owned and publicly traded company.

FHP has been on Guam for over 20 years. We have not only assumed the risk for our members health care but we have also provided that care through our health care delivery systems.

FHP maintains capital investments in it's staff model facilities. A total of 25% of all on island practicing physicians are on our staff.

On Guam we currently have approximately 32,000 members who rely on us to provide their health care needs.

I offer these comments about our company only to illustrate that we have demonstrated a commitment to the people of Guam and over these 20 years have provided a stable, professional, service to island residents.

We have worked hard and continue to strive for the highest standards of excellence and quality in our services and business practices.

We would normally hesitate to speak out in a public forum such as this one, however, we are here today because we believe that Bill No. 327 seriously threatens our ability to exist in this market place and we sincerely believe that it is fundamentally bad for the people of Guam.

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As a federally qualified HMO we are prohibited from engaging in rebates, enticements, inducements and the like. Bill No. 327 will severely handicap our ability to sell our product and provide our medical services.

I will direct my comments today towards Bill 327 only. I am not here to discuss the ongoing situation between the Director of Revenue and Taxation, Joaquin Blaz and the Staywell Insurance Company, nor will I comment on that issue.

Bill No. 327 repeals insurance legislation enacted by the 4th Guam Legislature which has applied to the insurance industry and the people of Guam for over 36 years. The changes as they are currently proposed threaten the health insurance industry here.

The following list details our specific concerns with this legislation:

#### Issues regarding consumer protection

Regulations within the insurance industry which disallow inducements, enticements and solicitation are intended to protect consumers from questionable business practices. Insurance, by its very nature, requires strict operational regulations and financial practices, and the highest degree of integrity and trust.

Bill No. 327 is intended to provide special interest protection specifically to one product currently in our marketplace. Our concern, however, is that this Bill as it is written moves beyond that intent and by exempting health coverage entirely, it opens the door and actually legalizes inducement, enticement and solicitation practices. These practices cannot and should not be allowed if the industry is expected to carry the highest ethical standards and integrity.

#### Premature Legislation

Bill No. 327 is a premature reaction by the legislature to address special interest group needs. That special interest group has publicly stated that their current business practices are in compliance with existing law. Litigation has been filed to substantiate that position and resolve questions regarding the current intent of the law. The proper arena for resolution of this issue is therefore in the judiciary branch of government. It appears the legislature's involvement is premature at this time.

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We believe that the government's role in these kinds of issues is consumer protection. Since this legislation has been introduced with the intent to protect rebates, we feel obligated to offer testimony in regards to the rebate issue and its inherent faults:

- ♦ Increasing Health Care Costs - Programs which are specifically designed to attract the healthy, low risk population into one pool ultimately segment the total population into tiers of high risk and low risk.

As this shift continues the cost of care per person for the high risk user goes up while the cost of care for the low risk user goes down.

The high risk users include the manamko, the children who need preventative care, the child bearing women, etc. The low risk users include single individuals, married couples, young individuals, and those who prefer to avoid medical treatment.

The plan in question has publicly stated that they have 14,000 enrollees and 27,000 members. The average number of dependents covered by each employee contract is .9 dependents. On the other hand, FHP's current average is 1.8 dependents or more than two times the average number of dependents covered by this competing plan. Clearly, segmentation of the risk pool has already occurred.

Now we face a social question that impacts all residents of Guam. If segmentation continues, who will absorb the cost of the high risk users of health care? Will the government?

What happens to the high risk users?

- ♦ They will see rapidly increasing premiums.
- ♦ They will be financially unable to afford care.
- ♦ Insurers will deny them coverage because of their high risk.
- ♦ The responsibility for their care will fall to programs like MIP, catastrophic care or uncollectible receivables at GMH. In other words the government.

This has occurred in the U.S. Mainland and the Clinton Administration is moving to assure affordable health care to all people. One facet of their plan is to eliminate this kind of market segmentation by imposing community rating methodologies which spread risk over all segments of the population. Under this methodology low risk users and high risk users pay an equal amount which covers all their combined costs.

♦ Preventative Care

Managed Care has demonstrated that the cost of health care is most effectively reduced by early intervention and treatment as well as care provided to healthy individuals such as prenatal care, well baby care, and regular physical examinations.

Any barriers to health care such as accessibility, financial ability, and inducements, to avoid seeking care work against preventative care. Incentivising a member to defer care or avoid care will not reduce cost and ultimately will cause them to escalate.

The pregnant woman who avoids prenatal care runs a much higher risk of delivering an unhealthy baby who may require thousands of dollars of medical treatment.

I quote from the report of the U.S. Preventative Service's Task Force, "Preventative services for the early detection of disease have also been associated with dramatic reductions in morbidity and mortality...Strokes have decreased by more than 50% since 1972, a trend attributed in part to earlier detection and treatment of hypertension. Cervical cancer mortality has fallen by 73% since 1950 due in part to widespread use of pap tests."

"Children with metabolic disorders who once suffered severe irreversible mental retardation, now usually retain normal cognitive function as a result of routine newborn screening and treatment."

"Infectious diseases such as Polio, which once occurred in regular epidemic waves...have become rare in the U.S. as a result of childhood immunization."

Incentives to avoid care not only create catastrophic care needs over the long term, but result in immediate overall cost increases in health care. Therefore, we believe that rebates, as anticipated by Bill No. 327 are not in the best interest of the people of Guam.

FHP believes in free enterprise and fair competition. In no way, would we ever seek to destroy a competitor. The secret of business success is to offer a product that meets the requirements of your customers. However, for this to succeed the playing field must be level.

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Laws against rebates, enticements, and inducements are a standard and a necessary restriction in the practice of insuring risk and are in place to assure a level playing field and protect the public interest.

Fair competition should be on service and price. Rebates should take the form of a reduction in premiums up front. Risk should be spread over the entire community population to avoid discrimination against those disabled or handicapped by health needs.

Guam is currently suffering from a critical shortage in available medical resources. All medical facilities are filled to capacity and physicians in the areas of OB-Gyn, Pediatrics and Surgery are stressed beyond capacity because of shortages. The patients are suffering. Bill No. 327 will stress this delivery system even farther.

We cannot bury our heads in the sand and pretend that capacity will improve by incentivising patients to avoid their doctor's office.

This issue is complex and will have a long term impact on our community. We encourage you to fully research and deliberate this issue. It is not in the best interest of the people to make a hasty decision.

I thank you for your kind attention, and I look forward to assisting this Committee whenever possible.

Sincerely,



MARGARET VAN METER  
FHP, Regional Vice President

MVM:slcg

# Guam Fire, Casualty and Marine Insurance Association

TELEPHONE: 477-1567

March 10, 1993

G.C.I.C. Arcade #14  
404 W. Soledad Ave.  
Agana, Guam 96910

Economic, Agricultural, Development  
and Insurance Committee  
22nd Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Attn: Senator Ben Pangelinan  
Chairperson

**DRAFT**

For Discussion Purposes Only

**Re: BILL NO. 327 - AN ACT TO REPEAL AND RE-ENACT SECTION  
43255 OF THE GOVERNMENT CODE RELATIVE TO CLARIFYING THAT  
REBATES MAY BE PAID TO INSURED OF HEALTH INSURANCE PLANS**

Dear Senator:

The Guam Fire, Casualty and Marine Insurance Association, represents only those classes of insurance indicated in it's title, and does not include Health Insurance, which more correctly falls into the Life category.

Having said that, the Association wishes to register it's opposition to any bill, or proposal that would legalize "rebating" on Guam.

"Rebate" is generally defined, by most insurance authorities, as a portion of the agent's commission returned to an insured, or anything else of value given to an insured, as an inducement to buy.

The payment of policy dividends, retroactive rate adjustments, and reduced premiums that reflect the savings of direct payment to an agent, or home office, are not usually considered to be rebates.

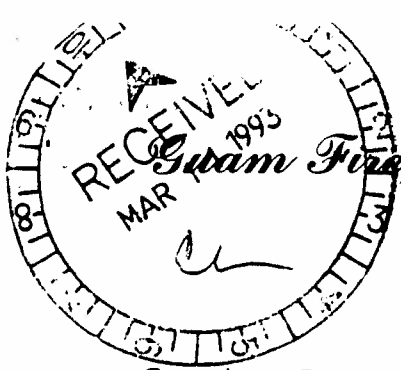
In most cases rebates are illegal, both for agents, or insurer to give a rebate and for an insured to receive one.

To propose legalizing rebates for a particular line of insurance would establish a dangerous precedent as other carriers may seek similar "special legislation" for other lines of insurance.

We also do not consider it appropriate that proposed changes to legislation should be taking place whilst there is a legal case pending, the outcome of which will have a direct bearing on the proposed changes.

Sincerely yours,

Ian N. Balfour  
Chairman  
Guam Fire, Casualty & Marine Insurance Association



*Guam Fire, Casualty And Marine Insurance Association*

G.C.I.C. ARCADE • ROOM #14  
404 WEST SOLEDAD AVENUE • AGANA, GUAM 96910  
TELEPHONE 477-1567

Senator Ben Pangelinan, Chairperson  
Economic, Agricultural, Development  
and Insurance Committee  
22nd Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

March 11, 1993

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We also do not consider it appropriate that proposed changes to legislation should be taking place whilst there is a legal case pending, the outcome of which will have a direct bearing on the proposed changes.

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read 'Ian N. Balfour'.

Ian N. Balfour  
Chairman  
Guam Fire, Casualty & Marine Insurance Association





GUAM MEMORIAL HEALTH PLAN  
142 West Seaton Blvd.,  
Agana, Guam 96910  
Tel.: 472-GMHP  
Fax: (671) 477-1784

Good afternoon Mr. Chairman, members of the committee, I am Frank B. Rosario. I am submitting testimony today in three different capacities against Bill 327.

I am the President of GMHP Associates and GMHP Health Ins. Ltd., the only local health care companies in Guam. We compete against insurance companies and believe that fair and honest competition focusing on the actual benefits offered by competing programs best assists consumers in determining which of the available options serves their health care needs. We believe that Bill 327 will have a significant, detrimental effect on the health care market and, ultimately, the consumers of Guam. However, since the parties involved in the recent events are now in litigation over these issues it is not appropriate for us to comment on specific concerns prior to the Court's determination.

GMHP Health Insurance Ltd. did not initially offer a refund insurance program because we felt refunds were basically a sales gimmick that did not promote legitimate health insurance goals. A refund program is really just a prepaid deductible plan, which does not promote the cost conscious use of health care services, but rather works as a disincentive to seeking needed services in the hope of "getting something back from the insurance company". In reality, the consumer is giving an interest free loan

to the insurance company. We determined that a fairer, and more honest, method of doing business was to eliminate the pre-paid deductible (or interest free loan) and only charge the consumer for the cost of the actual insurance. We felt that by doing business this way, the member gets to keep the deductible money, (or receive their refund in advance) throughout the entire year. However, we discovered that many people had already been persuaded that it was better to let someone hold their money interest free for a year in the hope of receiving a portion of it back at the end of the year. Therefore, in order to compete in the market place, we had to develop our own refund program, "Save Care". We were ordered to stop marketing our "Save Care" refund plan by the Commissioner in July, 1992. He determined that our "Save Care" program violated various provisions of Guam's insurance law.

Although as a businessman I do not approve of the government becoming deeply involved in private enterprise, the even-handed regulation of the insurance industry is essential because consumers do not have access to sufficient information to make a truly informed choice about coverage options. No other industry so directly affects so many of the most important areas of our lives. From the safety of our homes and protection of our most prized possessions, to the health and future well-being of our families, insurance has become an essential and vital element of our lives. In the context of this area of legitimate governmental regulation, the Commissioner presented solid arguments establishing

that refund features are contrary to the basic principles of insurance. These principles are to assure the payment of legitimate claims and to spread the cost, or risk, among the community at large or the risk pool. The Commissioner determined that allowing companies with refund programs to selectively remove the lower utilizers of health care services from the risk pool drives up the cost of health care for everyone else.

As I said earlier, I am not submitting testimony to discuss the merits of health insurance refunds as that issue is currently and rightfully pending in both the administrative and judicial branches. I mention this only to correct the perception that the Government has singled out one company for unfair action. We too had to close down our "Save Care" program in 1992.

I am submitting testimony concerning the bill before the committee which has the commonly perceived purpose of protecting a special interest from the actions of the executive branch. However, the bill will not resolve all of the complex issues appropriately raised by the Commissioner. What the bill does do is strike at the very core of fairness, honesty and consumer protection in the health insurance industry. Eliminating the current laws which restrict the payment of inducements for buying insurance and the require that insurance only be sold at the approved rate stated in the policy are in direct conflict with

other sections of Guam insurance law.

It is alarming that this bill removes the legitimate consumer protection against everything from paying kick backs to employing secret agents within every private company and every government agency to solicit business. With the passage of the bill it would be legal for an insurance agent make secret side deals with persons in charge of buying insurance for companies and government agencies, including kick backs to the person purchasing the insurance. This subverts the process from a determination of what is the best insurance for individuals and companies to one of who pays the biggest kick backs. Similarly, allowing the sale of insurance at less than the approved rate contained in the policy, places the consumer in a position of having no way of determining if the price he is paying for insurance is fair. Bill 327 also places the consumer at risk because an insurance company might not have sufficient assets to pay his claims. As a result legitimate insurers will either be driven out of business, or have to adopt similar negative practices, ultimately leaving the people of Guam to suffer the harm.

The insurance industry has worked very hard, in cooperation with the government to keep our insurance industry clean and improve our image. I believe that by passing Bill 327 you open the door to disreputable persons who would seize the opportunity to harm the people of Guam.

Finally, I am submitting testimony as a resident of Guam to ask two questions. First, If the practices this bill authorizes are acceptable and desirable, why does the bill only authorize them for health insurance and not other types of insurance as well? What makes practices otherwise illegal, acceptable for health insurance?

Second, Why is there a rush to judgment in this matter? There is already a law suit in progress involving these issues, in which the court has been asked to issue an injunction assuring neither the insurance company or the insureds will suffer any damage. What is the need for the immediate action by this respected body? To be perceived as having a knee jerk reaction is unbecoming, reduces respect for this institution, will result in enacting a bad law and infringes on the very fabric of our system of government. I urge you to allow the judicial and executive branches to complete their reviews and only then, after some time for careful study and consideration, take whatever action is determined necessary. But please do not open the floodgates of abuse on the people of Guam in the effort to protect one special interest.



FRANK B. ROSARIO



**Moylan's Insurance Underwriters, Inc.**

*Home of the Good Guys*

705 SOUTH MARINE DRIVE, TAMUNING, GUAM 96911

TEL.: (671) 649-5387, 5388, 5389, 5390, 5391

FAX: (671) 649-5386

March 11, 1993

The Honorable Senator Ben Pangelinan  
Chairman  
Economic, Agricultural Development  
and Insurance Committee  
22nd Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Hand Carried

Re: Bill No. 327 - An act to repeal and re-enact section  
43255 of the Government code relative to clarify that  
rebates may be paid to insureds of Health Plans.

Dear Senator Pangelinan and Members of the Committee:

My name is Kaleo Moylan, director of Moylan's Insurance Underwriters, and with me is Frank Campillo, Manager of the Life, Health and Financial Services Division of Moylan's Insurance. We are here to voice our opposition to Bill 327 which would allow rebates by health Insurers.

Our opposition to this bill is based on several factors:

First and foremost, rebating is an unlawful practise in the insurance industry. Most States and Territories recognize this fact and have implemented laws against rebating. There is a handful of States which allow rebating, however, there is not a single insurer in any of these States who sells a health plan which allows rebates.

By definition, insurance is a device for reducing risk by combining a sufficient number of exposure units to make their individual losses collectively predictable. The predictable loss is then shared by or distributed proportionally amongst all units in combination. The insurance principles are, therefore, violated if rebating is allowed due to the fact that the risk is not proportionally distributed.

Rebating will also divide the risk or pool of individuals into groups or classes of risk. While those on the low risk group may enjoy lower premiums, the individuals grouped on the high and medium risk groups will be overwhelmed with higher premiums. This type of class segregation has been found to promote increases in the cost of health care.



Senator Pangelinan  
Page 2

Rebating has an overall negative impact in the structure of insurance contracts. If rebating is allowed, insureds would be changing health products over and over in order to get new or better rebates. In the long run, however, this practice is neither a benefit to the consumers nor to the health insurance industry.

A secondary reason for opposing this bill is the hidden tax burden to which the consumer has not been made aware. Section 61 of the Internal Revenue Code clearly states that rebates constitute taxable income to the person receiving said rebate. Therefore any person receiving a rebate must declare it as income earned.

This tax burden will also affect employers who contribute fully or partially to the premiums pay by employees. The contributions made by an employer towards the payment of health insurance premiums are tax deductible to the employer. Nevertheless, the employer cannot take a deduction for the full premium if a portion of said premium is rebated. To better illustrate the aforementioned statement, we would like to provide an example:

Let's assume employer "A" purchases a health policy for the benefit of its employees and pays in full for the employee's premium. Let's also assume that the annual premium for a single employee is \$800.00 and that the employee receives a rebate of \$400.00 at the end of the policy year. First, the employee should receive a 1099 showing an earned income of \$400.00, this is in accordance with the Tax Laws. If the employer does not provide the employee with a 1099, then, the employer may not be able to deduct the full \$800.00 as a business expense and only the \$400.00 (premium minus rebate) become deductible. Therefore, the employer cannot take a full expense reduction and the employee must pay taxes on the rebates.

Rebating will also affect the many employers of Guam who have implemented a cafeteria plan for the benefit of their employees. A cafeteria plan under section 125 of the Internal Revenue Code allows employees to pay for health insurance premiums by using pre-tax dollars. This is a benefits which has helped many employees reduce their health care premiums. A rebate, however, could constitute a violation of section 125 and any monies received by an employee should be considered as distribution of income. Since the rebate may be construed as a violation of Section 125 of the IRS code, it jeopardizes the tax qualifications of the cafeteria plan.



Senator Pangelinan  
Page 3

One last concern with the bill is that rebating may be in violation to the newly enacted Americans with Disabilities Act (ADA). As previously stated, a rebate will likely benefit only those individuals grouped in the low risk pool and this could be construed as discrimination against individuals in the higher risk group.

We, therefore, urge you to consider the aforementioned facts and that bill 327 is not passed into law. We sincerely feel that this bill it is not in the best interest of the consumer or of the health insurance industry. We thank you for allowing us to testify before your committee.

Sincerely yours,

A handwritten signature in cursive, appearing to read 'Kaleo S. Moylan'.

Kaleo S. Moylan  
Director

A handwritten signature in cursive, appearing to read 'Frank J. Campillo'.

Frank J. Campillo  
Manager LHFS

c.c. All Senators 22nd Guam Legislature



My Dear Senators:

I come before you <sup>this evening</sup> today in strong favor and full support of Bill 327. It is my opinion that the StayWell Plan is being directly attacked by the Insurance Commissioner. It is unfortunate that the Insurance Commissioner has taken it upon himself to be JUDGE, JURY & EXECUTIONER of the StayWell Plan.

Section 43255 as I see it states that it is unlawful to pay or induce any person to enter into an insurance contract on Guam, any rebate of the whole or part of the premium or commission payable thereon or any valuable consideration which is not clearly specified, promised or provided in the policy.

The StayWell Plan has been in existence since 1982. Every Governor since has signed off on this Plan. Mr. Blaz himself has signed off on the contracts since he has held the office of Insurance Commissioner. I find this very baffling that it would take six (6) years to discover that this Plan is in violation of the law. I am motivated to believe that there may be political overtones to base his decision on!

Bill 327 would clarify to any individual in the future who would occupy the Office of Insurance Commissioner precisely the "rebate policy". It does not in any way single out the StayWell Plan but rather reinforce the fact that this governing body is here to protect the interest of the People of Guam.

<sup>the Insurance Commissioner</sup>  
(Mr. Blaz) further cites that the "refund feature creates unfair discrimination within a class of insurance purchasers, namely retirees, elderly, perennially ill and other high risk groups."

My dear Senators you have heard the enrollment and age statistics of the StayWell Plan members. These people have chosen the StayWell Plan for their own personal reasons. However it appears that the Insurance Commissioner is once again personally singling out the StayWell Plan.

We must consider the fact that health care costs have spiraled out of control. The StayWell Plan has provided an affordable mechanism to ensure adequate health coverage. There is no other plan available that allows the freedom to choose any doctor anywhere in the world without a referral. Further there is no other plan on island that refunds you for staying well.

President Clinton made health care an issue while campaigning for president. We on Guam are the leaders for adequate, affordable health care coverage. Please don't take this away from us.

Thank you for your attention and I strongly encourage each and every one of you on this committee to expedite the passage of BILL 327.

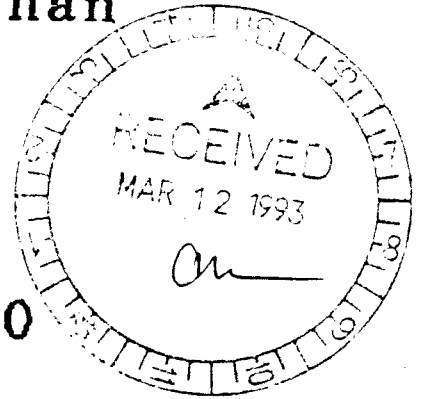
**SI YUUS MAASE**

\*\*\*\*\* Urgent \*\*\*\*\*

To: Senator Ben Pangilinan

From: Joe Topasna

Home Telephone: 472-1100



March 12, 1993

22nd Guam Legislature  
Agana, Guam

Re: BILL 327

Dear Senators:

My name is Joe Topasna. I am a Banker for a major corporation not only locally, but around the world. I am speaking on behalf of GMHP members... Who SWITCHED to StayWell because of Cost and Coverage.

During my days in college, I learned that in the early 1800's and 1900's, Insurance companies were crooks. Why? They were Profiteers who used fear to sell insurance. In addition, they were not fulfilling their obligation in providing coverage when a casualty or calamity happens.

Because of such illegal practices, the idea of an insurance commission was created to not only regulate, but to monitor the insurance company's activities against any illegal acts AGAINST the people. It was not its place to protect other competing insurance companies. As time goes by, insurance regulations and laws become more complex. However, the Insurance Commission always maintains the basic concept of protecting people from illegal activities.

Unfortunately, the Insurance Commissioner is not aware why he is the Insurance Commissioner. He brought an issue that was quite insulting to the intelligence of the people of Guam and myself. To imply that I was lured to Staywell because of a refund while sacrificing the health care of my family was an idiotic judgement. My family's livelihood is priceless, and it is not worth any refund.

He mentioned that the Policy is Discriminating. It attracts low risk people especially young members. I wonder if he did his research. Staywell has many statistics which are available if not already provided to the commissioner on its members profile. I have families and friends who are Staywell members and in their 40's & 50's who joined for reasons other than the refund.

One of the many reasons I joined, as well as for other members, was that you can get coverage ANYWHERE in the World!!! ... With No referral!!! and at a lower cost. Until recently, I was a GMHP member since 1987, and it's no secret that GMHP and FHP health insurance costs keep increasing and... increasing. Their usual claim is because of higher medical cost. Now...I don't know if you notice, but I have not seen HighTech medical technology drastically improving on our island nor have I seen any new doctors. In fact, doctors are leaving the island...because of the lack of adequate facilities to properly care for people. And we all wonder why people insist on traveling thousands of miles to get proper care.

The second reason for bringing up the Staywell issue was that it was illegal. O. K. ... and SO...

What is illegal about an insurance company that provides:

1. Lower Health COST - Staywell is currently the lowest Health Insurance Plan unlike GMHP & FHP.
2. Refunds - IT'S The only company who wants to return 3.5 Million dollars back to their members which in turn goes back to the Island's Economy ....A Very Innovative idea to keep its insurance cost low. Again unlike GMHP & FHP who are basically profiteering.
3. COVERAGE - The Plan also provides... HEALTH COVERAGE. Although they are an 80/20 plan, they also cover 100% for one of the best hospital in Hawaii- Straub and I believe another Hospital in California.

Please.. I ask you to look at the facts carefully in order to rectify this delusion which the Insurance Commissioner has. The insurance commissioner has not presented any reason why it is illegal except .. "It's the Law and that if it's illegal in the United States, it's illegal here..." as stated by the media.

What's the reason for singling out a plan that has been in existence for almost ten years and has become the most affordable health plan on Guam. It has been approved by governors and previous insurance commissioners INCLUDING our current Insurance Commissioner. So WHY now???? It is not a secret that insurance companies are having major problems trying to maintain their wealth. I really don't think the Insurance Commissioner is protecting the People of Guam, but the insurance competitors from reaping their wealth from the people of Guam.

The Insurance Commissioner must remember the insurance commission's basic fundamental purpose...To protect the members from PROFITEERING insurance companies.

In closing, Governor Ada has mentioned in his recent address to the people that Our Island's economy is slowing down. People are tightening their budget because of the high cost of living. And people are getting worried about high health insurance costs.

My Senators and my fellow Insurance Commissioner keep in mind why you are there in the first place. To protect the people...

If an innovative insurance product provides lower health insurance cost and provides excellent coverage as well as investing millions of dollars back to the Island's Economy. Let's change... let's be pro-active in our ideas to provide people affordable health insurance. Please remember what is happening to the Health Insurance cost in the United States. Families and especially children are suffering because they can't afford health insurance to receive proper health care. The United States Insurance Commission does make mistakes, and we should not follow suit. The commission should always seek innovative ideas for insurance companies to promote better and more affordable insurance products while maintaining it's fundamental purpose... "Protecting the People". We must not be confined in a box, unable to think beyond the barriers.

This bill would be beneficial not only to Staywell members but other Insurance company's members. Why? Because the law would provide innovative ideas to promote lower health insurance cost.

I ask you the senators of Guam let's start being innovative and pro-active in our economy for the sake of our people...

Please pass Bill 327.

Sincerely Yours,

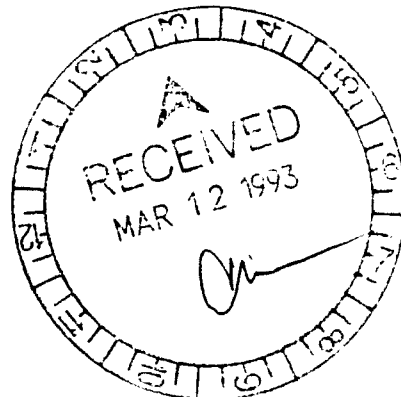


Joe Topasna

Taniguchi-Ruth-Smith  Associates  
Members of the American Institute of Architects

March 12, 1993

Senator Ben Pangelinan  
Committee on Economic & Agricultural Development  
22nd Guam Legislature  
Agana, GU 96910



Subj: Bill 327

Dear Committee:

This letter is written in support of Bill 327. It is regretful that this bill is necessary and we congratulate the Legislature for stepping in to correct an injustice created by others.

This firm has been insured by the Staywell health program for the past eight years. Employees in the office range from persons nearing retirement to employees with large families to young persons just out of school. The employees are unanimously in favor of the type of program offered by Staywell for many reasons, most notably the flexibility in choosing doctors and health services and the reward available for remaining healthy. The firm favors the program as it makes the employees think about their health and provides them the incentive to strive to remain healthy. Additionally, we believe that the Staywell flexible approach saves both time and money by allowing a person to efficiently chose the correct health service for their problem, to obtain a second opinion when warranted and to seek off-island treatment when warranted. Other health insurance programs we have utilized all have obstacles to obtaining efficient treatment inherent in their philosophy.

We have employees who receive refunds, and we have employees who have received maximum care for major health problems. In both instances, everyone is pleased. It is because of this satisfaction with Staywell that we cannot understand why a system as efficient and as logical as this should be criticized for reasons other than to make the programs of other providers more competitive. It is not the role of government to stifle competitiveness and it is not the Insurance Commissions role to make inefficient companies more competitive or to stifle creative approaches to providing effective health care. Many of us receive safe driver discounts as a reward, others are penalized for smoking by their life insurance premiums. These are all incentive programs and Staywell provides an incentive to members in their pool who take proper care of themselves.


The bottom line is that Staywell has never shirked their responsibility to provide the highest level of care to all employees and their families when it is needed. If they can maintain a system of providing health care in a manner which is efficient, effective and inexpensive, they should be rewarded just as persons who take care of their health should be rewarded.

We only wish that other types of insurance such as automobile, fire and casualty would take the same approach so that those who are careful and responsible can share in the profitability.

Several members of the firm attended the public hearing on bill 327 held last evening. Although they did not testify, they were there because of the support for, and interest in seeing the Staywell type system continue. We join with the many others who testified to state our overwhelming support for bill 327.

Very truly yours,

TANIGUCHI-RUTH-SMITH + ASSOCIATES



H. Mark Ruth, AIA



TESTIMONY IN FAVOR OF BILL 327 --- MARCH 11, 1993

My name is Lucy Brehm and this is my husband, David Newhall. I'm an attorney with the Public Defender's Office and my husband is in private practice. It's not very often that we come to public hearings to testify on behalf of an insurance company. But, when we heard about the misconceptions stated about the Staywell rebate program we felt that we had to come forward.

We feel qualified to testify on this issue because we have never received a rebate. Our daughter was seriously ill for most of the first year of her life and spent a significant period of time in the hospital - here at G.M.H. and in Hawaii and in the States. We feel strongly that the rebate program does not discriminate against persons with high claims history.

- A. The rebate program encourages each of us to think carefully about our health care dollars.

Do we really need to go to the doctor for a scratchy throat or would we rather in effect pocket the money that would have gone to the doctor and simply stay home and apply the home remedies that we all grew up with. Of course, if we need to go to the doctor - we go. And, as in the case with our daughter, we went to the doctor of our choice secure in the knowledge that Staywell would provide excellent coverage.

- B. The rebate program encourages each of us to stay healthy - that is- stay well.

Which of us aren't lured by extra cash to do things we might not otherwise do-like keeping fit and leading healthy lifestyles.

- C. The rebate program helps provide a larger risk pool over which Staywell can spread the costs of covering individuals with health problems.

We are glad that Staywell encourages and rewards healthy members. This provides more dollars to be spent on individuals who need more medical attention - like our daughter.

- D. The Insurance commissioner and the Legislature should concern themselves with more important issues than Staywell's rebate program.

There are serious healthcare problems on island regarding insurance and the quality of health care available. G.M.H. needs updated equipment and trained personnel so that children, like our daughter, don't have to be medevac'd to Hawaii to diagnose their problems. Many people on island do not have any health insurance at all and are in low paying jobs and cannot afford medical care. These are the types of problems that we wish the legislature and the Insurance Commissioner would address.

Thank-you.



# LAWLOR & ZAMSKY

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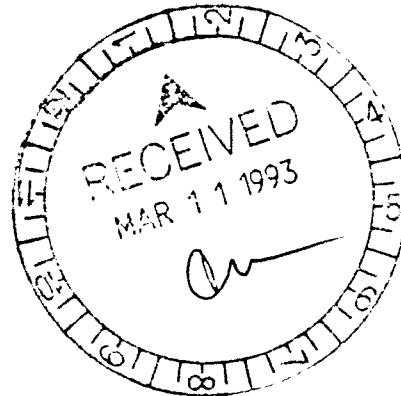
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Paul A. Lawlor  
Steven A. Zamsky  
*Of Counsel:*  
John A. Bohn

March 11, 1993

VIA FACSIMILE ONLY  
NO. (670) 472-3556

Honorable Senator V.C. Pangelinan  
TWENTY SECOND GUAM LEGISLATOR  
Suite 101, Biscoe Building  
130 Aspinall Avenue  
Agana, Guam 96910



RE: STAYWELL REFUNDS: BILL NO. 327

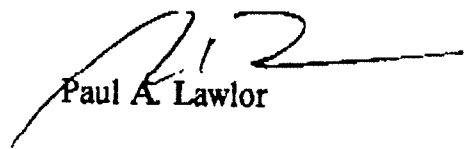
Dear Hon:

Although I am not a StayWell member, this letter is to voice my support for Bill No. 327 which affirms the right of StayWell Health Plan to pay refunds to its members.

Bill No. 327 allows not only StayWell but also its competitors to offer refunds to their members which may result in an overall lowering of health insurance premiums in Guam.

Keep up the good work.

Very truly yours,

  
Paul A. Lawlor

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