



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. **728**

June 14, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on June 14, 2006, the following bill was signed into law:

SB3072 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO
MOTOR VEHICLE INSURANCE.
(ACT 198)

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle".

LINDA LINGLE

JUN 14 2006

on _____

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 3072
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

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

1 SECTION 1. The legislature notes that section
 2 431:10C-308.5, Hawaii Revised Statutes, limits the charges for
 3 and frequency of medical treatment covered by personal injury
 4 protection (PIP) benefits. In accordance with this limitation
 5 on charges, the motor vehicle insurer has an obligation to limit
 6 payment of the insured's benefits for treatment.

7 The legislature finds that, as a result of the Hawaii
 8 Supreme Court's ruling in Orthopedic Associates of Hawaii, Inc.
 9 v. Hawaiian Insurance & Guaranty Co., Ltd., No. 24634, slip. op.
 10 (Dec. 7, 2005), insurers have implemented a process of issuing
 11 denials of benefits on all payments that are less than the
 12 amount billed. Some of the larger insurers are issuing several
 13 thousand denials each month. Copies of these denials are given
 14 to both the provider and the insured. This has prompted many
 15 calls from insureds who do not understand the process and are
 16 concerned that the insurer might be denying them access to
 17 medical treatment.

18



1 This Act is intended to clarify the process to be followed
2 in any billing adjustment or dispute where an insurer receives
3 and does not dispute the treatment rendered but finds the
4 billing to exceed the permissible charges. This Act is not
5 intended to affect the merits of the amount billed or the amount
6 owed under PIP. Specifically, this Act clarifies that any
7 adjustments to payment of the amount billed is an acceptance of
8 the treatment and not a denial of benefit. Therefore, section
9 431:10C-304(3), which requires a written denial of benefit, is
10 not applicable to an adjustment to the amount payable under PIP
11 benefits. Rather than issue a denial, this Act clarifies that
12 the insurer's obligation is to "pay all undisputed charges" and
13 "negotiate in good faith with the provider on the disputed
14 charges."

15 SECTION 2. Section 431:10C-308.5, Hawaii Revised Statutes,
16 is amended by amending subsection (e) to read as follows:

17 "(e) In the event of a dispute between the provider and
18 the insurer over the amount of a charge or the correct fee or
19 procedure code to be used under the workers' compensation
20 supplemental medical fee schedule, the insurer shall:

- 21 (1) Pay all undisputed charges within thirty days after
- 22 the insurer has received reasonable proof of the fact

1 and amount of benefits accrued and demand for payment
2 thereof; and

3 (2) Negotiate in good faith with the provider on the
4 disputed charges for a period up to sixty days after
5 the insurer has received reasonable proof of the fact
6 and amount of benefits accrued and demand for payment
7 thereof.

8 If the provider and the insurer are unable to resolve the
9 dispute[7] after a period of sixty days pursuant to paragraph
10 (2), the provider, insurer, or claimant may submit the dispute
11 to the commissioner, arbitration, or court of competent
12 jurisdiction. The parties shall include documentation of the
13 efforts of the insurer and the provider to reach a negotiated
14 resolution of the dispute. This section shall not be subject to
15 the requirements of section 431:10C-304(3) with respect to all
16 disputes about the amount of a charge or the correct fee and
17 procedure code to be used under the workers' compensation
18 supplemental medical fee schedule. An insurer who disputes the
19 amount of a charge or the correct fee or procedure code under
20 this section shall not be deemed to have denied a claim for
21 benefits under section 431:10C-304(3); provided that the insurer
22 shall pay what the insurer believes is the amount owed and shall



1 furnish a written explanation of any adjustments to the provider
2 and to the claimant at no charge, if requested. The provider,
3 claimant, or insurer may submit any dispute involving the amount
4 of a charge or the correct fee or procedure code to the
5 commissioner, to arbitration, or to a court of competent
6 jurisdiction."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.



GOVERNOR OF THE STATE OF HAWAII

Approved this day: JUN 14 2006


THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



Robert D. Burns
President of the Senate



Paul J. Conroy
Clerk of the Senate


**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K. Aoy
Speaker, House of Representatives



M. M. M. M. M.
Clerk, House of Representatives