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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1           SECTION 1. Section 386-21, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§386-21 Medical care, services, and supplies.** (a)  
4 Immediately after a work injury sustained by an employee and so  
5 long as reasonably needed the employer shall furnish to the  
6 employee all medical care, services, and supplies as the nature  
7 of the injury requires. The liability for the medical care,  
8 services, and supplies shall be subject to the deductible under  
9 section 386-100.

10           (b) Whenever medical care is needed, the injured employee  
11 may select any physician or surgeon who is practicing on the  
12 island where the injury was incurred to render such care. If  
13 the services of a specialist are indicated, the employee may  
14 select any such physician or surgeon practicing in the [~~State~~]  
15 state. The director may authorize the selection of a specialist  
16 practicing outside the State where no comparable medical  
17 attendance within the State is available. Upon procuring the  
18 services of such physician or surgeon, the injured employee



1 shall give proper notice of the employee's selection to the  
2 employer within a reasonable time after the beginning of the  
3 treatment. If for any reason during the period when medical  
4 care is needed, the employee wishes to change to another  
5 physician or surgeon, the employee may do so in accordance with  
6 rules prescribed by the director. If the employee is unable to  
7 select a physician or surgeon and the emergency nature of the  
8 injury requires immediate medical attendance, or if the employee  
9 does not desire to select a physician or surgeon and so advises  
10 the employer, the employer shall select the physician or  
11 surgeon. Such selection, however, shall not deprive the  
12 employee of the employee's right of subsequently selecting a  
13 physician or surgeon for continuance of needed medical care.

14 (c) The liability of the employer for medical care,  
15 services, and supplies shall be limited to the charges computed  
16 as set forth in this section. The director shall make  
17 determinations of the charges and adopt fee schedules based upon  
18 those determinations. Effective January 1, 1997, and for each  
19 succeeding calendar year thereafter, the charges shall not  
20 exceed one hundred ten per cent of fees prescribed in the  
21 Medicare Resource Based Relative Value Scale system applicable  
22 to Hawaii as prepared by the United States Department of Health



1 and Human Services, except as provided in this subsection. The  
2 rates or fees provided for in this section shall be adequate to  
3 ensure at all times the standard of services and care intended  
4 by this chapter to injured employees.

5 If the director determines that an allowance under the  
6 medicare program is not reasonable, or if a medical treatment,  
7 accommodation, product, or service existing as of June 29, 1995,  
8 is not covered under the medicare program, the director may, at  
9 any time, establish an additional fee schedule or schedules not  
10 exceeding the prevalent charge for fees for services actually  
11 received by providers of health care services to cover charges  
12 for that treatment, accommodation, product, or service. If no  
13 prevalent charge for a fee for service has been established for  
14 a given service or procedure, the director shall adopt a  
15 reasonable rate that shall be the same for all providers of  
16 health care services to be paid for that service or procedure.

17 The director shall update the schedules required by this  
18 section every three years or annually, as required. The updates  
19 shall be based upon:

20 (1) Future charges or additions prescribed in the Medicare  
21 Resource Based Relative Value Scale system applicable



1 to Hawaii as prepared by the United States Department  
2 of Health and Human Services; or

3 (2) A statistically valid survey by the director of  
4 prevalent charges for fees for services actually  
5 received by providers of health care services or based  
6 upon the information provided to the director by the  
7 appropriate state agency having access to prevalent  
8 charges for medical fee information.

9 When a dispute exists between an insurer or self-insured  
10 employer and a medical service provider regarding the amount of  
11 a fee for medical services, the director may resolve the dispute  
12 in a summary manner as the director may prescribe; provided that  
13 a provider shall not charge more than the provider's private  
14 patient charge for the service rendered.

15 (d) The director shall establish standardized forms for  
16 health care providers to use when reporting on and billing for  
17 injuries compensable under this chapter. The forms may be in  
18 triplicate, or in any other configuration to minimize, to the  
19 extent practicable, the need for a health care provider to fill  
20 out multiple forms describing the same workers' compensation  
21 case to the department, the injured employee's employer, and the  
22 employer's insurer.



1        [~~(d)~~] (e) If it appears to the director that the injured  
2 employee has wilfully refused to accept the services of a  
3 competent physician or surgeon selected as provided in this  
4 section, or has wilfully obstructed the physician or surgeon, or  
5 medical, surgical, or hospital services or supplies, the  
6 director may consider such refusal or obstruction on the part of  
7 the injured employee to be a waiver in whole or in part of the  
8 right to medical care, services, and supplies, and may suspend  
9 the weekly benefit payments, if any, to which the employee is  
10 entitled so long as such refusal or obstruction continues.

11        [~~(e)~~] (f) Such funds as are periodically necessary to the  
12 department to implement the foregoing provisions may be charged  
13 to and paid from the special compensation fund provided by  
14 section 386-151.

15        [~~(f)~~] (g) In cases where the compensability of the claim  
16 is not contested by the employer, the medical services provider  
17 shall notify or bill the employer, insurer, or the special  
18 compensation fund for services rendered relating to the  
19 compensable injury within two years of the date services were  
20 rendered. Failure to bill the employer, insurer, or the special  
21 compensation fund within the two-year period shall result in the  
22 forfeiture of the medical service provider's right to payment.



1 The medical service provider shall not directly charge the  
2 injured employee for treatments relating to the compensable  
3 injury."

4 SECTION 2. Notwithstanding the moratorium imposed under  
5 Act 11, Special Session Laws of Hawaii 2005, on the director of  
6 labor and industrial relations' rulemaking authority, the  
7 director of labor and industrial relations shall adopt, pursuant  
8 to chapter 91, Hawaii Revised Statutes, the standardized forms  
9 required under section 1 of this Act and shall make, at no cost  
10 to health care providers, the forms available to the health care  
11 providers of the state.

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2020.

HB 2698  
HD1

**Report Title:**

Workers' Compensation; Standardization of Forms

**Description:**

Requires the director of labor and industrial relations to establish standardized forms for health care providers to use when reporting on and billing for injuries compensable under the State's workers' compensation law. (HB2698 HD1)

