
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 (HRS), of the motor
3 vehicle insurance law, limits charges for, and the frequency of
4 medical treatment covered by personal injury protection benefits
5 to charges and frequency permissible under the workers'
6 compensation supplemental medical fee schedule. The motor
7 vehicle insurer has an obligation to limit payments for
8 treatment accordingly.

9 Whenever, according to these limits, the payment to the
10 provider must be less than the amount billed, insurers issue a
11 statement of denial of benefits not only to the provider, but
12 also to the insured. This procedure is required under the
13 Hawaii supreme court's ruling in *Orthopedic Associates of*
14 *Hawaii, Inc. v. Hawaiian Insurance & Guaranty Co., Ltd.*, No.
15 24634, slip. op. (Dec. 7, 2005). As a result, some of the
16 larger insurers are issuing several thousand denials each month.
17 In addition to the increased costs to insurers, this procedure
18 has prompted many calls from insureds who do not understand the



1 process and are concerned that the insurer might be denying them
2 access to medical treatment.

3 This Act is intended to clarify the procedure to be
4 followed when an insurer receives a demand for payment and does
5 not dispute the treatment rendered, but finds the billing
6 exceeds the charges permitted by law. This Act is not intended
7 to affect the amount billed or the amount owed under personal
8 injury protection.

9 Specifically, this Act makes clear that any adjustment to
10 payment of the amount billed is an acceptance of the treatment
11 and not a denial of benefit. Therefore, section 431:10C-
12 304(3)(B), HRS, which requires a written denial of benefit, is
13 not applicable to an adjustment of the amount billed under
14 personal injury protection benefits and the insurer need not
15 issue a denial.

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

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



1 (1) Pay all undisputed charges within thirty days after
2 the insurer has received reasonable proof of the fact
3 and amount of benefits accrued and demand for payment
4 thereof; and

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

10 If the provider and the insurer are unable to resolve the
11 dispute[7] within sixty days pursuant to paragraph (2), the
12 provider, insurer, or claimant may submit the dispute to the
13 commissioner, arbitration, or court of competent jurisdiction.
14 The parties shall include documentation of the efforts of the
15 insurer and the provider to reach a negotiated resolution of the
16 dispute.

17 Disputes between the provider and the insurer over the
18 amount of a charge or the correct fee or procedure code to be
19 used under the workers' compensation supplemental medical fee
20 schedule shall not be subject to the requirements of section
21 431:10C-304(3)(B) and the insurer shall not be deemed to have
22 denied a claim for benefits under that section; provided that



1 the insurer shall pay what the insurer believes is the amount
2 owed and shall furnish a written explanation of any adjustments
3 to the provider and to the claimant at no charge, if requested."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



SB 3072 SDI

HD1

Report Title:

Motor Vehicle Insurance; Medical Fee Schedule Payment Procedures

Description:

Clarifies the procedures for adjusting automobile personal injury protection coverage benefits in cases where the provider's charge for medical services does not conform to the workers' compensation supplemental fee schedule or there is a dispute over the correct fee or procedure code to be used under the schedule. (SB3072 HD1)

SB3072 HD1 HMS 2006-2648

