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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. The legislature finds that needless disruption  
2 of medical care services is a recurring problem in workers'  
3 compensation-related cases in the State and a serious impediment  
4 to the cost-effective treatment and recovery of injured workers.

5           The legislature also finds that the purpose of section  
6 386-21, Hawaii Revised Statutes, is to:

- 7           (1) Ensure that medical care, service, and supplies are  
8           furnished to the injured worker promptly and  
9           effectively;
- 10          (2) Prevent premature and improper termination of medical  
11          care and its attendant financial, medical, and  
12          psychological hardships; and
- 13          (3) Assist injured workers to achieve medical recovery as  
14          rapidly as possible so that they may return to gainful  
15          employment.

16          The purpose of this Act is to ensure that uninterrupted  
17 medical care is provided to an injured worker, even if the  
18 injured employee's employer denies further treatment, until the



1 director of labor and industrial relations renders a final  
2 decision on the matter.

3 SECTION 2. Section 386-21, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) The liability of the employer for medical care,  
6 services, and supplies shall be limited to the charges computed  
7 as set forth in this section. The director shall make  
8 determinations of the charges and adopt fee schedules based upon  
9 those determinations. Effective January 1, 1997, and for each  
10 succeeding calendar year thereafter, the charges shall not  
11 exceed one hundred ten per cent of fees prescribed in the  
12 Medicare Resource Based Relative Value Scale system applicable  
13 to Hawaii as prepared by the United States Department of Health  
14 and Human Services, except as provided in this subsection. The  
15 rates or fees provided for in this section shall be adequate to  
16 ensure at all times the standard of services and care intended  
17 by this chapter to injured employees.

18 If the director determines that an allowance under the  
19 medicare program is not reasonable, or if a medical treatment,  
20 accommodation, product, or service existing as of June 29, 1995,  
21 is not covered under the medicare program, the director may, at  
22 any time, establish an additional fee schedule or schedules not



1 exceeding the prevalent charge for fees for services actually  
2 received by providers of health care services to cover charges  
3 for that treatment, accommodation, product, or service. If no  
4 prevalent charge for a fee for service has been established for  
5 a given service or procedure, the director shall adopt a  
6 reasonable rate that shall be the same for all providers of  
7 health care services to be paid for that service or procedure.

8 The director shall update the schedules required by this  
9 section every three years or annually, as required. The updates  
10 shall be based upon:

- 11 (1) Future charges or additions prescribed in the Medicare  
12 Resource Based Relative Value Scale system applicable  
13 to Hawaii as prepared by the United States Department  
14 of Health and Human Services; or
- 15 (2) A statistically valid survey by the director of  
16 prevalent charges for fees for services actually  
17 received by providers of health care services or based  
18 upon the information provided to the director by the  
19 appropriate state agency having access to prevalent  
20 charges for medical fee information.

21 When a dispute exists between an insurer or self-insured  
22 employer and a medical service provider regarding the amount of



1 a fee for medical services, the director may resolve the dispute  
2 in a summary manner as the director may prescribe; provided that  
3 a provider shall not charge more than the provider's private  
4 patient charge for the service rendered.

5 When a dispute exists between an injured employee and the  
6 injured employer or employer's insurer regarding whether medical  
7 services should be continued, the injured employee shall  
8 continue to receive the medical services prescribed under the  
9 treatment plan last approved by the medical service provider  
10 until the director issues a decision on whether the injured  
11 worker's medical treatment should be continued."

12 SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:

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**Report Title:**

Workers' Compensation; Medical Treatment

**Description:**

Ensures that uninterrupted medical care is provided to an injured worker, even if the injured employee's employer denies further treatment, until the director of labor and industrial relations renders a final decision on the matter.

