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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, services, 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 in achieving medical recovery  
14          as rapidly as possible so that they may return to  
15          gainful 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~~] 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~~],  
22 at any time, may establish an additional fee schedule or



1 schedules not exceeding the prevalent charge for fees for  
2 services actually received by providers of health care services  
3 to cover charges for that treatment, accommodation, product, or  
4 service. If no prevalent charge for a fee for service has been  
5 established for a given service or procedure, the director shall  
6 adopt a reasonable rate that shall be the same for all providers  
7 of health care services to be paid for that service or  
8 procedure.

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

12 (1) Future charges or additions prescribed in the Medicare  
13 Resource Based Relative Value Scale system applicable  
14 to Hawaii as prepared by the United States Department  
15 of Health and Human Services; or

16 (2) A statistically valid survey by the director of  
17 prevalent charges for fees for services actually  
18 received by providers of health care services or based  
19 upon the information provided to the director by the  
20 appropriate state agency having access to prevalent  
21 charges for medical fee information.

1       When a dispute exists between an insurer or self-insured  
2 employer and a medical service provider regarding the amount of  
3 a fee for medical services, the director may resolve the dispute  
4 in a summary manner as the director may prescribe; provided that  
5 a provider shall not charge more than the provider's private  
6 patient charge for the service rendered.

7       When a dispute exists between an injured employee and the  
8 employer or the employer's insurer regarding whether medical  
9 services should be continued, the injured employee shall  
10 continue to receive the medical services prescribed under the  
11 treatment plan last approved by the medical service provider  
12 until the director issues a decision on whether the injured  
13 employee's medical treatment should be continued. If the  
14 director determines that medical services pursuant to the  
15 treatment plan should be or should have been discontinued, the  
16 director shall designate the date after which medical services  
17 for that treatment plan are denied. The employer or the  
18 employer's insurer may recover from the claimant's personal  
19 health care provider or other appropriate occupation or non-  
20 occupational insurer all the sums paid for medical services from  
21 that treatment plan rendered after the date designated by the



1 director. Under no circumstances shall the claimant be charged  
2 for the disallowed services."

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

5 SECTION 4. This Act shall take effect on July 1, 2006.

HB1867 HD1SD2  
CD1

**Report Title:**

Workers' Compensation; Medical Treatment; TTD

**Description:**

Ensures that uninterrupted medical care is provided to an injured employee, 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. (HB1867 CD1)

HB1867 CD1 HMS 2006-3828

