
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . COORDINATED CARE ORGANIZATIONS FOR MEDICAL**
5 **AND REHABILITATIVE SERVICES PROVIDED TO**
6 **PUBLIC EMPLOYEES SUBJECT TO CHAPTER 89**

7 **§386-A Purpose.** (a) A system of coordinated care to
8 provide coverage for the medical and rehabilitative benefits of
9 a policy required under this chapter shall have the following
10 purposes:

11 (1) Minimize workplace injuries and promote workplace
12 health and safety, through a cooperative effort among
13 the employer, the employer's workers' compensation
14 insurer, the employee, and the coordinated care
15 organization under section 386-H;

16 (2) Provide efficient, cost effective, and timely
17 treatment through a coordinated and comprehensive



- 1 system of quality health care, including the use of
2 case management;
- 3 (3) Provide a high level of quality of care;
- 4 (4) Provide an understandable, accessible, and user
5 friendly system of care, including open and direct
6 communication and cooperation among the employer, the
7 employer's workers' compensation insurer, the
8 employee, and the coordinated care organization;
- 9 (5) Provide a range of treatment, including but not
10 limited to office, clinic, laboratory, hospital,
11 rehabilitative, emergency, and other essential care;
- 12 (6) Make available a variety of specialties as may be
13 necessary and several providers within each specialty
14 to afford comprehensive care and a choice of provider
15 to the employee;
- 16 (7) Provide a prompt and appropriate return to work
17 program to assist an injured employee to return to
18 work safely without unnecessary medical delay, and
19 provide the employer and the employer's workers'
20 compensation insurer with timely medical information,
21 including work return status, recommended work



1 restrictions, projected date of return to work, and
2 degree of maximum medical improvement;

3 (8) Provide a vocational rehabilitation program under
4 section 386-25; and

5 (9) Provide a program of internal dispute resolution
6 processes such as mediation to reduce the adversarial
7 nature of workers' compensation; provided that the
8 administrative and appeals process under this chapter
9 shall be available to the injured employee at all
10 times.

11 (b) The provisions of subsection (a), except for
12 subsection (a)(1), are guidelines to assist a coordinated care
13 organization registered under section 386-D in forming a system
14 of coordinated care and to assist the employer, the employer's
15 workers' compensation insurer if the employer is not self-
16 insured, or a collective bargaining unit in selecting a
17 coordinated care organization.

18 (c) If a conflict arises in any particular case among the
19 listed purposes in subsection (a), then subsection (a)(3) shall
20 prevail.

21 **§386-B Application and authorization.** (a) This part
22 shall not apply without the mutual authorization of the



1 exclusive representative of a collective bargaining unit
2 established under section 89-6 and the employer. For the
3 purposes of this part, "employer" means only the State, any
4 county or political subdivision of the State, and any other
5 public entity within the State.

6 (b) If there is a mutual authorization under subsection
7 (a), a negotiated agreement under section 386-3.5 may include
8 the use of a registered coordinated care organization to provide
9 coverage for medical and rehabilitative services required under
10 this chapter.

11 **§386-C Who may form.** (a) The following groups may form a
12 coordinated care organization for purposes of section 386-B:

- 13 (1) An employee organization, as defined in section 89-2;
- 14 (2) A mutual benefit society certified under
15 chapter 432:1;
- 16 (3) A health maintenance organization certified under
17 chapter 432D;
- 18 (4) An insurer offering a policy under chapter 431:10A;
19 and
- 20 (5) An association, partnership, or professional
21 corporation of physicians and other health care

1 providers, including hospitals, rehabilitation
2 services, and emergency care providers.

3 (b) For purposes of section 386-B, an organization listed
4 in subsection (a) shall operate under this chapter through a
5 workers compensation insurer providing benefits under chapter
6 386.

7 **§386-D Registration.** (a) A coordinated care organization
8 qualified under section 386-C shall register with the
9 department. The registration shall be submitted on forms
10 specified by the department and shall include the following
11 information:

- 12 (1) Name, address, and phone number of the organization;
13 (2) Identity of members of the organization, including but
14 not limited to, health care providers, clinics, and
15 hospitals or other medical facilities;
16 (3) Services provided by the organization; and
17 (4) Description of a plan of organization and operation to
18 implement the purposes under section 386-A.

19 (b) Registration under subsection (a) shall be a
20 prerequisite for providing coverage for medical and
21 rehabilitative services for purposes of section 386-B. The
22 department shall not accept any registration submitted by an



1 organization that does not meet the requirements of section
2 386-C.

3 (c) A coordinated care organization shall file one or more
4 plans or agreements as samples with its registration under
5 subsection (a) for purposes of section 386-A(b). Plans or
6 agreements shall not be subject to approval by the department.

7 (d) Violation of this section shall nullify any agreement
8 or contract under section 386-B.

9 **§386-E Registration fee.** (a) The purpose of this section
10 is to provide for a self-sustaining coordinated care
11 organization system. Employers, insurers, health care
12 providers, and other organizations may realize a cost savings
13 from forming a coordinated care organization. Because these
14 savings accrue to their benefit, these entities shall be
15 assessed a filing fee under subsection (b) so that the State is
16 not burdened with added expense.

17 (b) Each registration filed under section 386-D shall be
18 accompanied by a registration fee of \$10,000.

19 (c) There is established a coordinated care organization
20 special fund to be administered by the department. Sums
21 received by the department for registration under this section
22 shall be deposited into the fund. The fund shall be used by the



1 department to defray costs and expenses incurred by the
2 department under this part. Unexpended moneys remaining in the
3 special fund upon repeal of this section shall lapse into the
4 general fund.

5 **§386-F Solvency and fee schedules.** (a) A registered
6 coordinated care organization may have a negotiated amount paid
7 by the employer, employer's workers' compensation insurer, or a
8 collective bargaining unit, as applicable, for all services
9 provided to all covered employees.

10 (b) If the negotiated amount under subsection (a) is a
11 fixed sum for comprehensive care for work injuries, the
12 coordinated care organization shall be subject to the solvency
13 requirements, as follows:

14 (1) For a health insurer under chapter 431:10A, chapter
15 431:5 shall apply;

16 (2) For a mutual benefit society, chapter 432 shall apply;

17 (3) For a health maintenance organization, chapter 432D
18 shall apply; and

19 (4) An employee organization under section 89-2 or an
20 association under section 386-C(a)(5) shall post bond
21 with the insurance commissioner in an amount that the
22 insurance commissioner deems sufficient.



1 (c) A coordinated care organization shall not be subject
2 to regulation under the insurance code if:

3 (1) The negotiated amount under subsection (a) is in the
4 form of assessments, dues, or contributions; and

5 (2) The payment to health care providers for rendering
6 health care and service for work injuries is based
7 upon a fee for each service.

8 (d) Fee schedules shall be as provided under section
9 386-21(c).

10 **§386-G Treatment and utilization protocols.** (a) A
11 registered coordinated care organization shall be exempt from
12 the requirements under section 386-26; provided that the
13 frequency and extent of treatment shall not be less than
14 required by the nature of the injury and the process of
15 recovery. Treatment and utilization protocols shall be subject
16 to approval by the department, if the department finds that the
17 protocols of a particular coordinated care organization warrant
18 an approval procedure to ensure that a high level of quality of
19 care is provided. The director shall have a health care
20 provider advisory committee to advise the department on approval
21 of protocols.



1 (b) If the employee believes that more treatment is
2 necessary than that provided under subsection (a), the employee
3 and the coordinated care organization shall utilize the
4 procedures under section 386-A(a)(9) to ensure that a high level
5 of quality of care is provided.

6 (c) An employer's workers' compensation insurer shall not
7 deny approval of treatment if the treatment is within
8 subsection (a).

9 **§386-H Choice of coordinated care organization; choice of**
10 **provider.** (a) An employer may select two or more registered
11 coordinated care organizations for purposes of this part. The
12 employee shall have a choice of selecting one or need not select
13 any.

14 (b) Prior to the employee's selection of a coordinated
15 care organization under subsection (a), the employer shall
16 provide the employee with information about each coordinated
17 care organization that is being offered to the employee. The
18 information shall include a list of names, addresses, and
19 specialties of the individual health care providers who provide
20 services for the coordinated care organization.

21 (c) A registered coordinated care organization shall
22 provide to an employee in its program a choice of physicians and



1 specialists. The employee may change a physician or a
2 specialist, as provided in section 386-21(b), within a
3 coordinated care organization.

4 (d) Nothing in this section shall limit receiving
5 emergency medical treatment for a work injury from any health
6 care provider or medical services provider. Emergency medical
7 treatment shall be paid by the employer's workers' compensation
8 insurer or the self-insured, as applicable.

9 (e) This section shall not be construed to affect section
10 386-21(b) with regard to changing a medical services provider.

11 **§386-I Independent medical examination.** (a) The
12 employer, the employer's workers' compensation insurer if the
13 employer is not self-insured, or the injured worker may request
14 an independent medical examination for good cause. A case
15 manager under section 386-J shall refer the injured worker to an
16 appropriate health care provider for an independent medical
17 examination outside of the coordinated care organization. The
18 independent medical examiner shall examine the injured worker,
19 review the records, and render a medical report.

20 (b) If the injured worker refuses to accept the health
21 care provider designated by the case manager under subsection
22 (a), the coordinated care organization and the injured worker

1 shall agree upon another health care provider who is
2 appropriately qualified to perform an independent medical
3 examination.

4 (c) An independent medical examination under this section
5 shall be performed within twenty-one days of the referral under
6 subsection (a).

7 (d) The employer or the employer's workers' compensation
8 insurer if the employer is not self-insured, as applicable,
9 shall pay for the examination and report under subsection (a).
10 The cost of the examination or report shall be subject to
11 approval of the director if the cost is contested. The
12 independent medical examination report shall be submitted to the
13 coordinated care organization, the employer, the employer's
14 workers' compensation insurer if the employer is not self-
15 insured, and the employee.

16 **§386-J Case management.** A registered coordinated care
17 organization shall assign a case manager to each injured
18 employee to facilitate the accomplishment of the purposes under
19 section 386-A. The case manager shall be a registered nurse who
20 holds a national certification as a case manager or a registered
21 nurse who is otherwise professionally qualified to provide case



1 management services as determined by the registered coordinated
2 care organization."

3 SECTION 2. (a) There is established a coordinated care
4 organization review task force that shall be administratively
5 attached to the department of labor and industrial relations.

6 The task force shall consist of the following ten members:

- 7 (1) Director of labor and industrial relations;
- 8 (2) Insurance commissioner; and
- 9 (3) Eight persons appointed by the director of labor and
10 industrial relations, one to represent each of the
11 following: public sector labor, management,
12 coordinated care organizations, health care providers
13 involved with a coordinated care organization,
14 workers' compensation insurers, nurse case managers,
15 vocational rehabilitation specialists, and the general
16 public.

17 If a vacancy occurs, the vacancy shall be filled for the
18 unexpired term in the same manner as the office was previously
19 filled. The members shall serve without compensation but shall
20 be reimbursed for all necessary expenses.

21 (b) The task force shall monitor and study the coordinated
22 care organization system established by this Act to:



- 1 (1) Ensure that a sufficient level of quality care is
2 maintained, while giving consideration to balancing
3 the interests of employers and employees;
- 4 (2) Evaluate the effectiveness of each registered
5 coordinated care organization in achieving the
6 purposes set forth under section 386-A, Hawaii Revised
7 Statutes;
- 8 (3) The accessibility of medical specialist care to
9 injured employees, including considerations of island
10 by island availability of medical specialists who are
11 willing to treat injured employees under chapter 386,
12 Hawaii Revised Statutes;
- 13 (4) Make recommendations, if any, to strengthen the
14 coordinated care organization system; and
- 15 (5) Compare workers' compensation insurance premiums paid
16 by employers before and after utilizing coordinated
17 care organizations.
- 18 (c) The insurance commissioner, the department of labor
19 and industrial relations, all other state agencies, and all
20 registered coordinated care organizations shall cooperate with
21 the task force in the study by providing information to the task
22 force upon request. The information shall include the number of



1 employees enrolled in the coordinated care organization, number
2 of disenrolled employees, and the reasons for disenrollments.

3 (d) The task force shall submit a report of its findings
4 and recommendations to the legislature and the governor no later
5 than twenty days prior to the convening of the regular session
6 of 2011.

7 SECTION 3. If any provision of this Act or the application
8 thereof to any person or circumstance is held invalid, the
9 invalidity does not affect other provisions or applications of
10 the Act which can be given effect without the invalid provision
11 or application, and to this end the provisions of this Act are
12 severable.

13 SECTION 4. In codifying the new sections added by this
14 Act, the revisor of statutes shall substitute the appropriate
15 section numbers for the letters used in designating the new
16 sections in this Act.

17 SECTION 5. This Act shall take effect upon its approval.
18

INTRODUCED BY: Kerik Caldwell

Josh Green MD
Mel Carroll

Dr. R. H. Karaman

BB

Michelle L. [unclear]
John Long

[unclear]
Mr. [unclear]

HB2647

Report Title:

Workers' Compensation; Public Employees; Coordinated Care

Description:

Establishes a coordinated care system option to provide workers' compensation benefits for public employees.

