
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~~] medical
13 care. If the services of a specialist are indicated, the
14 employee may select any [~~such~~] physician or surgeon practicing
15 in the State. The director may authorize the selection of a
16 specialist practicing outside the State where no comparable
17 medical attendance within the State is available. Upon
18 procuring the services of [~~such~~] a physician or surgeon, the



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

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



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

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

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

- 21 (1) Future charges or additions prescribed in the Medicare
22 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~~] services provider regarding the
11 amount of a fee for medical services, the director may resolve
12 the dispute in a summary manner as the director may prescribe;
13 provided that a provider shall not charge more than the
14 provider's private patient charge for the service rendered.

15 (d) The director, with input from stakeholders in the
16 workers' compensation system, including but not limited to
17 insurers, health care providers, employers, and employees, shall
18 establish standardized forms for health care providers to use
19 when reporting on and billing for injuries compensable under
20 this chapter. The forms may be in triplicate, or in any other
21 configuration to minimize the need for a health care provider to
22 fill out multiple forms describing the same workers'



1 compensation case to the department, the injured employee's
2 employer, and the employer's insurer.

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

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

17 [~~(f)~~] (g) In cases where the compensability of the claim
18 is not contested by the employer, the medical services provider
19 shall notify or bill the employer, insurer, or the special
20 compensation fund for services rendered relating to the
21 compensable injury within two years of the date services were
22 rendered. Failure to bill the employer, insurer, or the special



1 compensation fund within the two-year period shall result in the
2 forfeiture of the medical [~~service~~] services provider's right to
3 payment. The medical [~~service~~] services provider shall not
4 directly charge the injured employee for treatments relating to
5 the compensable injury."

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

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

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



HB2698, SD1

Report Title:

Workers' Compensation; Standardization of Forms

Description:

Requires the director of labor and industrial relations, with input from interested stakeholders in the workers' compensation system, to establish standardized forms for medical service providers to use when reporting on and billing for injuries compensable under the State's workers' compensation law. (SD1)

