

JAN 25 2006

S.B. NO. 2352

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The purpose of this Act is to create equity
2 between the rights and benefits afforded to Hawaii's employees
3 and the fiscal needs of Hawaii's employers. This Act seeks to
4 ensure the stability of the State of Hawaii's workers'
5 compensation system and to protect it from experiencing the same
6 crippling hardships faced by other states by establishing
7 medical provider networks from which employers would direct
8 their employees to receive medical treatment.

9 SECTION 2. Section 386-1, Hawaii Revised Statutes, is
10 amended by adding the definition of "evidence-based medical
11 treatment guidelines" to read as follows:

12 "Evidence-Based Medical Treatment Guidelines" means
13 evidence-based clinical practice guidelines adopted by the
14 United States Department of Health and Human Services National
15 Guideline Clearinghouse."

16 SECTION 3. Section 386-21, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

1 "(b) Whenever medical care is needed, the employer, or its
2 insurance carrier, may require the injured employee to select
3 from an approved employer designated health care provider
4 network to provide medical services for the first one-hundred
5 and twenty calendar days of medical treatment from date of
6 injury, unless the employee, upon the date of employment or 12
7 months prior to the date of injury, has provided the employer,
8 or its insurance carrier, with the name and address of the
9 employee's family physician, who must be authorized to treat
10 injuries covered by this chapter, from who, they will receive
11 health care treatment in the event of a workers' compensation
12 injury. Further:

13 (1) In the absence of an employer designated health care
14 provider network or employee designated family
15 physician, the injured employee may select any
16 physician or surgeon who is practicing on the island
17 where the injury was incurred to render such care. If
18 the services of a specialist are indicated, the
19 employee may select any such physician or surgeon
20 practicing in the State. The director may authorize
21 the selection of a specialist practicing outside the
22 State where no comparable medical attendance within

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

19 (2) Only after one hundred twenty calendar days of
20 treatment for a work injury, may an employee utilizing
21 an employer designated health care network opt to
22 change physicians for any reason;

1 (3) Fifty per cent of the employer designated health care
2 provider network must contain qualified health care
3 providers who reside on the island where the injured
4 employee resides;

5 (4) The network shall contain qualified health care
6 providers who are primarily engaged in the treatment
7 of occupational injuries and health care providers
8 primarily engaged in the treatment of nonoccupational
9 injuries. The goal shall be at least twenty-five per
10 cent of physicians primarily engaged in the treatment
11 of nonoccupational injuries. The number of physicians
12 in the health care provider network shall be
13 sufficient to provide treatment for injuries or
14 conditions in a timely manner. The health care
15 provider network shall include an adequate number and
16 type of physicians, or other providers, to treat
17 common injuries experienced by injured employees based
18 on the type of occupation or industry in which the
19 employee is engaged, and the geographic area where the
20 employees are employed;

21 (5) To the extent feasible, all medical treatment for
22 injuries shall be available to all employees. With

1 respect to availability and accessibility of
2 treatment, the director shall consider the needs of
3 rural areas, specifically those in which health
4 facilities are located at least thirty miles apart;

5 (6) The employer, or its insurance carrier, shall submit a
6 plan for the health care provider network to the
7 director for approval. The director shall approve the
8 plan if the director determines that the plan meets
9 the requirements of this section;

10 (7) If the employer, or its insurance carrier, meets the
11 requirements of this section, the director may not
12 withhold approval or disapprove an employer's, or its
13 insurance carrier's, health care provider network
14 based solely on the selection of providers;

15 (8) No person other than a qualified health care provider
16 under this chapter, who is competent to evaluate the
17 specific clinical issues involved in the medical
18 treatment services, when these services are within the
19 scope of the health care providers practice, may
20 modify, delay, or deny requests for authorization of
21 medical treatment; and

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS
COMPENSATION.

PURPOSE: The purpose OF this bill is to ensure that injured employees receive the quality medical care they are entitled to for injuries they sustain on the job by allowing employers to establish health care provider networks from which employers would direct their employees to receive medical treatment.

MEANS: Amends sections 386-1 and 386-21(b), Hawaii Revised Statutes.

JUSTIFICATION: Studies show that Hawaii has a high percentage of injured workers who miss work due to their injury. Studies also show that it takes longer for injured employees to return to work. These occurrences are due to over-utilization of medical care that only serve to further harm the injured employee physically, mentally, and financially.

Hawaii is ranked as one of the highest states in the nation in the average cost employers pay in workers' compensation premiums. The present workers' compensation system is frustrating, costly, and creates unnecessary delays.

Establishing employer designated health care provider networks will allow an employer to better control costs by giving them greater input as to who can provide treatment.

This will also help employers to control costs by allowing them to designate a specific medical provider network to provide

care. The Workers' Compensation Research Institute has shown that "...workers' compensation medical networks are generally associated with much lower medical costs: 16 to 46 percent lower if the injured worker is treated exclusively by network providers and up to 11 percent lower if the worker is treated predominately, but not exclusively by network providers."

Further, allowing employers to direct employees to a health care provider network would decrease delays in the workers' compensation system when conflict arises.

Currently, if either an employee or employer disagrees with the recommendation of the health care provider, the employer may send the employee to an Independent Medical Examiner ("IME"), at the cost of the employer, to be evaluated. A hearing is then scheduled to review the records of both providers. This process creates delays in resolving the case. Health care provider networks would reduce the need to hire an IME since the employer would have 120 days of medical history compiled by a physician the employer had already selected. It would save employers additional costs and expedite treatment of and compensation to the injured employee.

Impact on public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LBR-183.

Page 3

OTHER AFFECTED
AGENCIES:

Judiciary, University of Hawaii, Department
of Education, Department of Human Resource
Development.

EFFECTIVE DATE:

Upon approval.