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# A BILL FOR AN ACT

RELATING TO STANDARDIZED FORMS FOR WORKERS' COMPENSATION HEALTH  
CARE PROVIDERS.

**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



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

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

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

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

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



- 1 (1) Future charges or additions prescribed in the Medicare  
2 Resource Based Relative Value Scale system applicable  
3 to Hawaii as prepared by the United States Department  
4 of Health and Human Services; or
- 5 (2) A statistically valid survey by the director of  
6 prevalent charges for fees for services actually  
7 received by providers of health care services or based  
8 upon the information provided to the director by the  
9 appropriate state agency having access to prevalent  
10 charges for medical fee information.

11 When a dispute exists between an insurer or self-insured  
12 employer and a medical [~~service~~] services provider regarding the  
13 amount of a fee for medical services, the director may resolve  
14 the dispute in a summary manner as the director may prescribe;  
15 provided that a provider shall not charge more than the  
16 provider's private patient charge for the service rendered.

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



1 configuration so as to promote, to the extent practicable, the  
2 minimization of the need for a health care provider to fill out  
3 multiple forms describing the same workers' compensation case to  
4 the department, the injured employee's employer, and the  
5 employer's insurer.

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

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

20       ~~[(f)]~~ (g) In cases where the compensability of the claim  
21 is not contested by the employer, the medical services provider  
22 shall notify or bill the employer, insurer, or the special



1 compensation fund for services rendered relating to the  
2 compensable injury within two years of the date services were  
3 rendered. Failure to bill the employer, insurer, or the special  
4 compensation fund within the two-year period shall result in the  
5 forfeiture of the medical [~~service~~] services provider's right to  
6 payment. The medical service provider shall not directly charge  
7 the injured employee for treatments relating to the compensable  
8 injury."

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

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

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

**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)

