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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



1 injured employee's employer denies further treatment, until the  
2 director of labor and industrial relations renders a final  
3 decision on the matter.

4 SECTION 2. Section 386-21, Hawaii Revised Statutes, is  
5 amended by amending subsection (c) to read as follows:

6 "(c) The liability of the employer for medical care,  
7 services, and supplies shall be limited to the charges computed  
8 as set forth in this section. The director shall make  
9 determinations of the charges and adopt fee schedules based upon  
10 those determinations. [~~Effective January 1, 1997, and for each~~  
11 ~~succeeding calendar year thereafter, the] The charges shall not  
12 exceed one hundred ten per cent of fees prescribed in the  
13 Medicare Resource Based Relative Value Scale system applicable  
14 to Hawaii as prepared by the United States Department of Health  
15 and Human Services, except as provided in this subsection. The  
16 rates or fees provided for in this section shall be adequate to  
17 ensure at all times the standard of services and care intended  
18 by this chapter to injured employees.~~

19 If the director determines that an allowance under the  
20 medicare program is not reasonable, or if a medical treatment,  
21 accommodation, product, or service existing as of June 29, 1995,



1 is not covered under the medicare program, the director, at any  
2 time, may establish an additional fee schedule or schedules not  
3 exceeding the prevalent charge for fees for services actually  
4 received by providers of health care services to cover charges  
5 for that treatment, accommodation, product, or service. If no  
6 prevalent charge for a fee for service has been established for  
7 a given service or procedure, the director shall adopt a  
8 reasonable rate that shall be the same for all providers of  
9 health care services to be paid for that service or procedure.

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

- 13 (1) Future charges or additions prescribed in the Medicare  
14 Resource Based Relative Value Scale system applicable  
15 to Hawaii as prepared by the United States Department  
16 of Health and Human Services; or
- 17 (2) A statistically valid survey by the director of  
18 prevalent charges for fees for services actually  
19 received by providers of health care services or based  
20 upon the information provided to the director by the



1 appropriate state agency having access to prevalent  
2 charges for medical fee information.

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

9 When a dispute exists between an injured employee and the  
10 employer or the employer's insurer regarding the proposed  
11 treatment plan or whether medical services should be continued,  
12 the injured employee shall continue to receive essential medical  
13 services prescribed by the treating physician necessary to  
14 prevent deterioration of the injured employee's condition or  
15 further injury until the director issues a decision on whether  
16 the injured employee's medical treatment should be continued.  
17 The director shall make a decision within thirty days of the  
18 filing of a dispute. If the director determines that medical  
19 services pursuant to the treatment plan should be or should have  
20 been discontinued, the director shall designate the date after  
21 which medical services for that treatment plan are denied. The



1 employer or the employer's insurer may recover from the injured  
2 employee's personal health care provider or other appropriate  
3 occupation or non-occupational insurer all the sums paid for  
4 medical services rendered after the date of notification to the  
5 employer or the employer's insurer and the employee, whichever  
6 date is last, of the date designated by the director. All  
7 treatments rendered and all payments made prior to the date that  
8 the employer or the employer' and employee are notified of the  
9 director's decision should not be recoverable by the insurer.  
10 Under no circumstances shall the injured employee be charged for  
11 the disallowed services, unless the services were obtained in  
12 violation of section 386-98. The attending physician, injured  
13 employee, employer, or insurance carrier may request in writing  
14 that the director review the denial of the treatment plan or the  
15 continuation of medical services."

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

18 SECTION 4. This Act shall take effect on July 1, 2007.



**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. (SD1)

