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

16 If the director determines that an allowance under the
17 medicare program is not reasonable, or if a medical treatment,
18 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
21 appropriate state agency having access to prevalent
22 charges for medical fee information.



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

7 When a dispute exists between an injured employee and the
8 employer or the employer's insurer regarding the proposed
9 treatment plan or whether medical services should be continued,
10 the injured employee shall continue to receive essential medical
11 services prescribed by the treating physician necessary to
12 prevent deterioration of the injured employee's condition or
13 further injury until the director issues a decision on whether
14 the injured employee's medical treatment should be continued.
15 The director shall make a decision within thirty days of the
16 filing of a dispute. If the director determines that medical
17 services pursuant to the treatment plan should be or should have
18 been discontinued, the director shall designate the date after
19 which medical services for that treatment plan are denied. The
20 employer or the employer's insurer may recover from the
21 claimant's personal health care provider qualified pursuant to
22 section 386-27, or from any other appropriate occupational or



1 non-occupational insurer, all the sums paid for medical services
2 rendered after the date designated by the director. Under no
3 circumstances shall the claimant be charged for the disallowed
4 services, unless the services were obtained in violation of
5 section 386-98. The attending physician, injured employee,
6 employer, or insurance carrier may request in writing that the
7 director review the denial of the treatment plan or the
8 continuation of medical services."

9 SECTION 2. (a) There is created a temporary working group
10 to consider and make recommendations on the issue, when there
11 exists a dispute over whether treatment to an injured employee
12 should be continued, whether an employer should be required to
13 continue medical services to the injured employee until the
14 director of labor and industrial relations makes a decision
15 whether the treatment should be continued.

16 (b) The working group shall consist of the following
17 members:

- 18 (1) One member representing a large Hawaii business firm;
19 (2) One member representing a small Hawaii business firm;
20 (3) One member representing a Hawaii workers' compensation
21 insurer;



1 (4) One member representing a Hawaii workers' compensation
2 health care provider; and

3 (5) One member representing the organized labor community
4 in Hawaii.

5 The chairperson of the Senate judiciary and labor committee and
6 the chairperson of the House labor and public employment
7 committee, or their designees, shall act as co-chairpersons of
8 the working group.

9 (b) The department of labor and industrial relations shall
10 assist the working group in drafting any recommended legislation
11 and provide administrative support as needed.

12 (c) The temporary working group shall report its findings
13 and recommendations, including any necessary proposed
14 legislation, to the legislature, no later than twenty days prior
15 to the convening of the regular session of 2009.

16 (d) The temporary working group shall terminate on
17 June 30, 2009.

18 SECTION 3. This Act does not apply to any dispute resolved
19 prior to its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2009,
2 except that section 2 shall take effect upon approval.



Report Title:

Workers' compensation; Medical Treatment

Description:

Requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the director of labor and industrial relations decides whether treatment should be continued. Creates a working group to recommend if treatment should be continued during dispute. Eff 7/1/2009. Working group effective upon approval. (HB2388 SD2)

