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Hawaii Medical Association  
1360 S. Beretania St.  
Suite 200  
Honolulu, HI 96814  
(808) 536-7702  
(808) 528-2376 fax  
www.hmaonline.net

February 5, 2008

To: Senate Committee on Judiciary & Labor  
Senator Brian T. Taniguchi, Chair  
Senator Clayton Hee, Vice Chair

From: Cynthia J. Goto, M.D., President  
Linda Rasmussen, M.D., Legislative Co-Chair  
Philip Hellreich, M.D., Legislative Co-Chair  
Paula Arcena, Executive Director  
Dick Botti, Government Affairs Liaison

Re: SB 2538 Relating to Workers' Compensation

PLEASE DELIVER  
Senate Judiciary &  
Labor Committee  
LATE TESTIMONY for  
Monday  
2-5-08  
9:00am

**LATE**

The Hawaii Medical Association supports SB 2538. While we are appreciative of your Committee's addressing the current situation, we feel that the 10% increase that this measure addresses is still not adequate for some situations where specialists are required to address certain employee injuries.

We suggest the following amendments to the bill, which would allow the department to address situations where a specialist is needed in order to ensure the standard of services and care intended by this chapter to injured employees, that may require an across the board increase in premiums.

**Proposed changes:**

"(c) The liability of the employer for medical care, services, and supplies shall be limited to the charges computed as set forth in this section. The director shall make determinations of the charges and adopt fee schedules based upon those determinations. Effective January 1, ~~[1997,]~~ 2009, and for each succeeding calendar year thereafter, the charges shall not exceed ~~[one hundred ten]~~ one hundred twenty per cent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services, except as provided in this subsection. The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees.

If the director determines that an allowance under the Medicare program is not reasonable, or if a medical treatment, accommodation, product, or service existing as of June 29, 1995, is not covered under the Medicare program, the director, at any time, may establish an additional fee schedule or schedules ~~[not exceeding the prevalent charge for fees for services actually received by providers of health care services to cover charges for that]~~ to ensure for the standard of treatment, accommodation, product, or service intended by this chapter to injured employees. If no prevalent charge for a fee for service has been established for a given service or procedure, the director shall adopt a reasonable rate that shall be the same for all providers of health care services to be paid for that service or procedure.

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

(1) Future charges or additions prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services; or

(2) ~~{A statistically valid survey by the director of prevalent charges for fees for services actually received by providers of health care services or based upon the information provided to the director by the appropriate state agency having access to prevalent charges for medical fee information}~~ A determination by the director of fees for services sufficient to ensure at all times the standard of services and care intended by this chapter to injured employees, provided that a provider shall not charge more than the provider's private patient charge for the service rendered.

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