



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 9, 2010

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Labor and Public Employment

Date: March 9, 2010

Time: 9:30 a.m.

Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Testimony in OPPOSITION

to

S.B. 2339 S.D. 1 – Relating to Workers' Compensation

I. DEPARTMENT POSITION

The Department objects to the proposed amendment to Section 386-86, HRS, since it does not allow for any extensions past thirty calendar days for the employer to submit their reasons for and supporting documentation to substantiate their denial of the claim. Extensions are often granted to obtain medical reports and occasionally second opinions from other physicians to substantiate a claim for workers' compensation. If an injured worker has a pre-existing condition, such as a heart problem, back problem, etc., the employer has a right to investigate whether the claimed work injury/illness is directly related to their employment. By not allowing for any extensions, the employer may not receive the medical reports before the thirty-day deadline and therefore not have sufficient documentation to substantiate their denial. The department's determination that follows will then have to be made without sufficient evidence, resulting in increased requests for hearings, slowdowns in the adjudication process, and ultimately delays in the potential payments and treatments to the injured worker.

The Department, therefore, opposes the proposed amendment for the reasons cited above.

II. OVERVIEW OF CURRENT PROPOSED LEGISLATION

SB 2339 SD 1 proposes to amend Section 386-86, HRS, by requiring the employer to submit a written report to the director and the claimant within thirty calendar days of their

denial of, or indication to not accept, compensability of a workers' compensation claim. The report shall describe the employer's internal investigation and supporting details that substantiate the employer's denial of, or indication to not accept, compensability. The due date for the employer's written report shall not be extended.

III. CURRENT LAW

Section 12-10-73, Hawaii Administrative Rule, currently requires the employer to submit a written report to the director and the injured employee within thirty calendar days supporting their denial of compensability of a workers' compensation claim. Failure to submit a written report to support the denial shall indicate acceptance of the injury by the employer. The director may grant extensions for filing the employer's written report upon showing of good cause in writing.

Based on the employer's report, the director then determines whether or not the claim should be accepted. If the claim should be accepted, the employer is given thirty calendar days to request a hearing. If the director believes the denial of compensability is proper, the employee is given the option to file a claim for industrial injury that then results in a workers' compensation hearing to be held.

LINDA LINGLE
GOVERNOR OF HAWAII



MARIE C. LADERTA
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 8, 2010

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
For Hearing on Tuesday, March 9, 2010
9:30 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**Senate Bill No. 2339, S.D. 1
Relating to Workers' Compensation**

WRITTEN TESTIMONY ONLY

TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 2339, S.D. 1, is to amend Section 386-86, Hawaii Revised Statutes, to require an employer, who denies a claim, to submit a written report to the director and claimant within thirty days of its denial, to substantiate its denial, and prohibits the director from extended the due date for the written report to be submitted.

The Department of Human Resources Development is strongly opposed to this bill for the following reasons:

1. In some cases, it is impossible to complete an investigation within 30 days because it is difficult to immediately obtain medical records in view of current privacy laws.
2. If medical records require a special consent to release information and consent is not timely provided by the employee because of incapacitation, negligence, or the employee is otherwise uncooperative in providing the consent, the employer would not be able to responsibly complete its investigation and review within the timeframe proposed in the measure. In effect, the claim could be determined to be compensable as a result of the employer's inability to defend itself against an unmeritorious claim. Under such situations, the bill could needlessly escalate the costs

of workers' compensation claims because there would be no flexibility for good faith effort by an employer to perform its investigations and reviews.

3. This bill is unnecessary as HAR Section 12-10-73, already provides the checks and balances necessary to expedite the process of investigating a claim by requiring an employer to show good cause in writing as to why an extension is needed. Extensions to file the written report are not granted by the director as a matter of routine. The employer has to explain fully what steps it has taken to investigate the claim and by what date it will be completed.

Based on the above reasons, we strongly urge the Committee to hold this bill.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

860 SOUTH KING STREET, 10TH FLOOR
HONOLULU, HAWAII 96813

MUFI HANNEMANN
MAYOR



Noel T. Ono
DIRECTOR

March 9, 2010

The Honorable Karl Rhoads, Chair
and Members of the Committee
on Labor & Public Employment
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: Senate Bill No. 2339, SD1
Relating to Workers' Compensation

The City and County of Honolulu strongly opposes Senate Bill No. 2339, SD1, which amends Section 386-86, Hawaii Revised Statutes (HRS), by setting unreasonable time constraints on the employer for determining the compensability of a claim for workers' compensation benefits.

The employer's decision to accept compensability is frequently prolonged because medical reports and documentation are not submitted in a timely fashion by the claimant and/or his treating physician. This results in the employer having to subpoena medical records, thus delaying the employer's ability to review the records and/or have them reviewed by medical experts prior to making a determination on whether to accept or deny the claim.

HRS Section 386-85 already places a tremendous burden on the employer by presuming that all claims are compensable in the absence of substantial evidence to the contrary. This standard of proof often requires that the employer obtain one or more expert opinions if it decides to deny compensability. Given the time it takes for such opinions to be rendered, the amendment proposed by this Bill would effectively make a claim compensable based on time constraints rather than medical evidence and will significantly increase the cost of workers' compensation in the State of Hawaii.

We respectfully urge your Committee to file Senate Bill No. 2339, SD1.

Yours truly,

A handwritten signature in black ink, appearing to read "Noel T. Ono".

Noel T. Ono
Director of Human Resources

THE HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair

Rep. Kyle T. Yamashita, Vice Chair

TESTIMONY OF ILWU LOCAL 142 RE: SB 2339, S.D. 1
RELATING TO WORKERS' COMPENSATION

Hearing: Tuesday March 9, 2010

Time: 9:30 a.m.

Place: Conference Room 309, State Capitol

Chairman Rhoads, Vice Chair Yamashita, and Committee Members:

Thank you for the opportunity to present testimony regarding SB 2339, S.D. 1. We support this useful and constructive bill.

Section 386-86 HRS now contains no time period during which an Employer must make a decision to deny a claim for workers' compensation benefits. SB 2339 S.D.1, by contrast, establishes a mandatory thirty day time period for the Employer to submit a written report which justifies the denial of the claim. This is a sensible, administrative improvement which should encourage all parties to act responsibly moving cases toward a prompt resolution.

Legislative action is necessary in this area because of the languid pace at which claims are sometimes investigated and accepted or denied. Some employers deny claims "pending investigation", delaying access to vital medical care and compensation benefits for the injured worker while medical evaluations by the employers' physicians are arranged to accommodate the schedules of the examining doctors rather than the need to have the claim adjudicated promptly. Consequently, treatable injuries that should lead to limited periods of disability, prompt rehabilitation and the resumption of productive work become more complicated and prolonged. Physical injuries and disability without compensation or treatment generate corresponding financial and social problems, and with the passage of time, often lead of needless emotional distress and psychological dysfunction.

Delay, however, is not solely the enemy of the injured worker but it is also the enemy of cost conscious employers and the public interest in effective insurance at reasonable premium rates. Because claims are not promptly denied, hearings to determine compensability are delayed, and time that should be devoted to care and rehabilitation is squandered. By requiring a prompt investigation of any denial of a claim within 30 days without extensions, this proposed legislation is an effective antidote to delay and indifference and a meaningful step toward greater efficiency and economy.

Accordingly, ILWU Local 142 staunchly supports the passage of SB 2399, S.D.

1.



HAWAII INJURED WORKERS ALLIANCE
715 SOUTH KING STREET SUITE #410
HONOLULU, HAWAII 96813

March 7, 2010

The Twenty-Fifth Legislature, State of Hawaii
The House of Representatives
Committee on Labor and Public Employment

S.B. 2339 SD1 Requires an employer who denies compensability, or indicates compensability is not accepted, to submit a written report to the director and claimant within thirty days of its denial of, or indication not to accept, compensability that substantiates its denial of compensability; prohibits the due date for the employer's written report to be extended.

The Hawaii Injured Workers Alliance strongly supports this measure.

We believe this bill will bring the responsible parties to move claimants case forward toward a prompt resolution.

We believe this will only work if the director will not grant extensions of time to deny or defer compensation of claims pending investigation of claims.

We believe that SB 2339 SD1 will settle claims in a timely manner.

We agree this is a positive step for injured workers in the State of Hawaii.

Your passage of this bill would be greatly appreciated.

George M. Waialeale
Executive Director
Hawaii Injured Workers Alliance
383-0436

THE LAW OFFICES OF DOUGLAS THOMAS MOORE

Office Address:
Century Square
1188 Bishop Street, Suite 1401
Honolulu, Hawai'i 96813

Telephone: (808) 526-0056
Fax: (808) 526-0057
Moore4640@hawaiiantel.net

March 8, 2010

TO: House Labor Committee
Hon. Rep. Karl Rhoads, Chair

Re: TESTIMONY IN SUPPORT OF SB 2339, SD 1
TO BE HEARD 3/9/10 @ 9:30 a.m

Dear Rep. Rhoads and Committee Members:

I represent injured workers in their workers' compensation claims. I support SB 2339, SD1. The intention of the bill is to protect the rights of injured workers by expediting the investigation of claims and the conduct of hearings to award or deny compensation.


Employers and insurance carriers have the right to investigate claims. However, they do not have the right to abuse this process while investigating claims. Stall tactics such as denying or deferring compensability of the claims pending their investigations hurt the injured worker. The injured worker typically does not receive medical benefits/treatment and/or TTD wage loss during these investigations. This creates great hardship to the injured worker. These investigations which deny or defer compensation can take a long time. HAR 12-10-73(a) allows the director to grant extensions of time to investigate claims. Employers and insurance carriers can abuse this process by conducting lengthy investigations and then are granted more extensions of time to investigate. All the while, the hardship to the injured worker continues. The attitude appears to be: if we stall, maybe this claim will go away.

I enclose here examples of claims that were denied pending investigation. The investigations were lengthy. There were extensions to investigate. Meanwhile, the injured workers suffered physically, mentally and financially.

Please pass this bill. Thank you.

Should you have any questions or need further information from me, please do not hesitate to contact me.

Very Truly Yours,



Douglas Thomas Moore

encs.

Island Insurance Companies

ISLAND INSURANCE COMPANY, LTD. • TRADEWIND INSURANCE COMPANY, LTD.

IP002518

★ October 7, 2009

Mr. Darwin Ching
Dept. of Labor and Industrial Relations
Disability Compensation Division
P.O. Box 3769
Honolulu, HI 96812

Re: Claimant : Martin Olvera
Insured : ██████████
D/Injury : 09-12-09
Our Claim No. : IP002518
DCD Case No. : Pending

Dear Mr. Ching:

We are denying the above noted claim pending further evaluation. According to the WC-1 it is not known as to how Claimant was injured. We are awaiting the statements from Employer, co-workers and Claimant to determine how, where and when Claimant was injured and whether his injury/injuries was related to his job duties. We are also awaiting the medical reports, if any, to determine his diagnosis, prognosis and recommendation for medical treatment.

After we obtain the Claimant's, employer's and co-workers' statements we would like to obtain an independent medical evaluation to determine Claimant's symptoms, medical condition and further treatment.

In light of the above and in compliance with Section 12-10-73, H.R.S., Employer/Carrier is respectfully requesting 120 days to evaluate the above captioned claim. We shall inform all parties as to our position once determination has been made.

Should further discussion be necessary, kindly contact the undersigned. Thank you very much.

Sincerely,



By _____
Telephone (808) _____
Mr. Martin Olvera

RECEIVED
OCT 14 2009
ISLAND INSURANCE

Claims Office 1165 Bethel St. • P.O. Box 1520 • Honolulu, Hawaii 96806-1520 • Phone (808)531-1311 • Fax (808)539-9738

Received by Island Insurance 10/8/2009 8:37:55 AM

THE LAW OFFICES OF DOUGLAS THOMAS MOORE

Office Address:
Century Square
1188 Bishop Street, Suite 1401
Honolulu, Hawaii 96813

Telephone: (808) 526-0056
Fax: (808) 526-0057
Email: Moore4640@
hawaiiantel.net

December 23, 2009

██████████
Island Insurance Company
P.O. Box 1520
Honolulu, Hi. 96806-1520

RE: ACCEPT COMPENSABILITY NOW
Claimant: Martin Olvera, Jr.
Employer: ██████████ Plumbing
Carrier: Island Insurance
D/Injury: 9/12/2009
Case No.: 2-09-

Dear Ms. ██████████:

This letter follows our conversation 12/21/09 in which I questioned you about the status of accepting compensability in this claim. You have the Claimant's interview transcript. I understand the employer and co-workers have been interviewed. To my knowledge, there is no evidence that Claimant did not suffer a work-related accident and injuries as claimed. Do you have any such evidence? If not, then the claim must be accepted as compensable.

Please be reminded that HAR Sec. 12-10-73 requires that when compensability has not been accepted, the employer shall submit a written report to the director and the injured employee within thirty calendar days supporting the denial. Failure to submit a written report to support the denial shall indicate acceptance of the injury by the employer. To my knowledge, the employer has not submitted as required a written report to the director and the injured employee within thirty calendar days supporting the denial. Therefore, we consider the failure to submit a written report to support the denial as acceptance of the injury by the employer. Pay benefits to Claimant now.

Therefore, please immediately confirm acceptance of claim compensability or we will file for hearing requesting sanctions. Please reply immediately to this request. Thank you for your immediate attention, consideration, and anticipated cooperation.

Very truly yours,


Douglas Thomas Moore

cc: Martin Olvera, Jr.

Martin Olvera
91-046 Parish Dr.
Ewa Beach, HI 96706
219-808-2698

January 27, 2010

To: Hon. Senate Labor Committee
Hon. Sen. Dwight Takamine, Chair
Dear Senators:

I am an injured worker. I am writing to you in support of SB 2339 to limit the time employers and insurance companies can investigate work comp claims and deny compensability of claims.

My work comp claim has been denied pending investigation since 10/7/2009. I was injured on 9/12/2009. I worked for years as a plumber and I hurt my left shoulder while working on pipes.

I have been off work since 9/16/2009. My medical treatment has been denied. I have not received any TTD wage loss. I am experiencing extreme medical/physical and economic hardship.

I have used all my savings. I have no one to support me. I may be evicted soon.


On 10/7/2009, Island Ins. stated to the Dept. of Labor that they wanted 120 days to evaluate my claim. Why do they need 120 days to evaluate a simple work comp injury? This is too much time to investigate and deny my claim pending investigation. I do not understand why I am being denied benefits. I thought work comp was supposed to be like a no-fault system, but I am being treated like I am at fault because I accidentally got hurt on the job.

On 12/23/2009, after having to hire a work comp attorney, my attorney wrote to Island Ins. requesting they accept compensability since they have not filed any report with the Dept. of Labor to support their denial. There has been no response.

Employers and insurance companies should not be allowed to extend their investigations while they deny compensability since this causes so much hardship to injured workers.

I support the proposed amendments to HRS 386-86 as stated in SB 2339. Please vote for and pass this bill. Thank you very much.

Sincerely yours,



Martin Olvera



JOHN MULLEN & CO., INC.

INSURANCE ADJUSTERS AND INVESTIGATORS

Suite 910 • 677 Ala Moana Blvd. • Honolulu, HI 96813

P.O. Box 2096 • Honolulu, HI 96805

Tel: (808) 531-9733 • Fax: (808) 531-0053

Website: www.johnmullen.com • Email: info@johnmullen.com

★ August 19, 2008

██████████
██████████
Waipahu HI 96797

Employer: ██████████
Employee: ██████████
Date of Injury: 08/02/08
Claim No.: ██████████
Our File No.: ██████████
DCD Case No.:

DISABILITY COMPENSATION
DIVISION

08 AUG 25 A9 100

ENCLOSURE: Highlights of Workers' Compensation Law

Dear Ms. ████████:

We are the insurance adjusters for your employer and have been notified of your industrial injury/illness.

Based on the information we have received thus far, we are unable to determine whether this is a covered Workers' Compensation claim. Therefore, we are currently investigating this matter. If we have not yet been in contact with you to discuss your claim, please call the undersigned at your earliest convenience. It is imperative that you make immediate contact with this office to discuss your claim.

Enclosed for your review please find a brochure entitled "Highlights of Hawaii Workers' Compensation Law." This will provide you with a brief overview of the Hawaii State Workers' Compensation benefits and procedures.

As your claim is currently under investigation, you may file a WC-5, Employee's Claim for Benefits. This form can be obtained at the Department of Labor and Industrial Relations, Disability Compensation Division. Please be advised that while your claim is being investigated, we will not be able to pay any medical or wage loss benefits. In the interim, you may be entitled to other benefits; and we suggest that you contact your employer about this.



JOHN MULLEN & CO., INC.

INSURANCE ADJUSTERS AND INVESTIGATORS

Suite 910 • 677 Ala Moana Blvd. • Honolulu, HI 96813

P.O. Box 2096 • Honolulu, HI 96805

Tel: (808) 531-9733 • Fax: (808) 531-0053

Website: www.johnmullen.com • Email: info@johnmullen.com

✱ January 8, 2009

TREATMENT PLAN DENIAL

DARWIN L D CHING
INTERIM DIRECTOR OF LABOR
STATE OF HAWAII
DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS
DISABILITY COMPENSATION DIVISION
PO BOX 3769
HONOLULU HI 96812-3769

Employer: [REDACTED]
Employee: [REDACTED]
Date of Injury: 08/02/08
Claim No.: [REDACTED]
Our File No.: [REDACTED]
DCD Case No.: [REDACTED]

ENCLOSURE(S):

1. Treatment plan of Dr. [REDACTED] dated 12/27/08

Dear Mr. Ching:

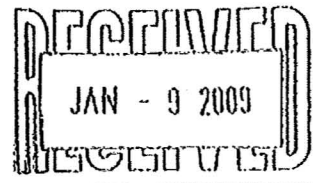
We are in receipt of Dr. [REDACTED]'s treatment plan dated December 27, 2008 and postmarked December 27, 2008. Pursuant to Section 12-15-32 of the Workers' Compensation Medical Fee Schedule and Administrative Rules, we object to Dr. [REDACTED]'s treatment plan as this claim is currently denied pending investigation. The claimant was seen for an Independent Medical Evaluation with Dr. [REDACTED] and we await his report. Until such time as we receive his report, we are unable to complete our investigation to determine compensability of this claim.

By copy of this letter, Dr. [REDACTED] and the Claimant are notified that should they disagree with this denial, a review by the Director may be requested within fourteen (14) calendar days after postmark of the Employer's denial. Failure to do so shall be construed as acceptance of Employer's denial.

Thank you for your time and attention in this matter. If there are any questions, please feel free to contact me directly.

Sincerely,

[REDACTED]
cc: Dr. [REDACTED]
cc: Douglas Moore, Esq.



LINDA LINGLE
GOVERNOR



MARIE C. LADERTA
DIRECTOR
CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA ST., 13TH FLOOR
HONOLULU, HAWAII 96813

July 17, 2009

Mr. Gary S. Hamada, Administrator
Department of Labor and Industrial Relations
Disability Compensation Division
830 Punchbowl Room 209
Honolulu, HI 96813

Dear Mr. Hamada:

RE: EMPLOYEE: [REDACTED]
EMPLOYER: State/Dept. of [REDACTED]
D/INJURY: 6/9/09
CASE NO.: [REDACTED]

Investigation of Ms. [REDACTED]'s claim is anticipated to require more than 30 days.
Pursuant to 12-10-73 of the Administrative Rules, we request an extension of 90 days
from the date of this letter.

We sent a questionnaire was sent to the Claimant on 6/24/09 but have not received a response to date. As such, we do not have a detailed description of the above-mentioned industrial injury, or details about who she treated with or her past medical history. We would however, like the opportunity to investigate the circumstances of this case. An Independent Psychiatric Evaluation has been scheduled for 7/30/09.

Please notify this office should this request be denied.

Sincerely,

[REDACTED]
[REDACTED]

Employee Claims Division

c: [REDACTED]



BROADSPIRE

a Crawford Company



December 13, 2007

State of Hawaii
Department of Labor
75 Aupuni Street
Hilo, HI 96813

12-1073 NOTICE

RE: [REDACTED]
Date of injury: 11/12/2007
Claim:# [REDACTED]

This letter is to request an additional 90 days to investigate the compensability of the above referenced claim. According to the medical reports which are attached, the employee sustained a specific injury on 10/25/2007. It is not clear whether the employee is claiming the injury to be work related, but in the event he is, it was not reported to the employer on a timely basis. As a result of the injury on 10/25/2007 the employee was totally disabled from work by Dr. [REDACTED] ongoing from that date, until 1/25/2008. The employee failed to notify the employer of the fact he was taken off work by Dr. [REDACTED] and continued to work until Monday 11/12/2007. The statement of Dr. [REDACTED] was not provided to the employer until 11/30/2007.

In addition to the above facts, and based on the medical information provided, the employee appears to have a chronic back condition for which he has received treatment in the past, and it appears the employee's current complaints are a continuation of the effects of his pre-existing condition.

Respectfully submitted,

[REDACTED]
Claim Examiner

Cc: Attorney [REDACTED] - 220 S. King St. 10th floor, Honolulu, HI 96813
[REDACTED] - [REDACTED]
[REDACTED] - 1320 Harbor Bay Parkway, Ste 135, Alameda, CA 94502

KESSNER UMBAYASHI
BAIN & MATSUNAGA
ATTORNEYS AT LAW
A LAW CORPORATION

18TH FLOOR
CENTRAL PACIFIC PLAZA
220 SOUTH KING STREET
HONOLULU, HAWAII 96813

★ August 8, 2008

TELEPHONE:
(808) 536-1900
TELECOPIER:
(808) 529-7177
E-MAIL:
lawyers@kdubm.com

State of Hawaii
Disability Compensation Division
830 Punchbowl Street, Room 209
Honolulu, Hawaii 96813

Re: Claimant : ██████████
Employer : ██████████
Carrier : ██████████
D/A : November 12, 2007
Case No. : ██████████
File No. : ██████████

Dear Sir/Madam:

This office represents ██████████ and ██████████, adjusted by ██████████ in connection with a workers' compensation claim brought by Claimant ██████████. Please find enclosed an original copy of an independent medical evaluation report, dated July 29, 2008, by ██████████, M.D. Please include Dr. ██████████'s report with your file for Mr. ██████████'s claim. By copy of this correspondence, we are providing Dr. ██████████'s report to Mr. ██████████ attorney, Douglas Moore, M.D.

We will be providing Employer and Insurance Carrier's position in the near future.
Thank you for your attention to the foregoing. Should you have questions or concerns, please feel free to contact the undersigned directly.

Very truly yours,

KESSNER UMBAYASHI
BAIN & MATSUNAGA

██████████
██████████
██████████

Enclosure: Orig. IME report by Dr. ██████████ dated 07/29/08
cc: ██████████ - ██████████ & Company (w/o encl.) (██████████)
— Douglas Moore, Esq. (w/encl.)



Crum & Forster Indemnity Company
United States Fire Insurance Company
The North River Insurance Company

✱ October 25, 2007

Douglas Moore
Attorney at Law
1188 Bishop St. #1009
Honolulu, HI 96813

Re: Employee : ██████████
Employer : ██████████
Date of Injury : 9/22/06
Claim Number: ██████████
DCD Number : Pending

Enclosure: Medical authorization form

Dear Mr. Moore:

I understand that you will be representing Ms. ██████████ regarding the above workers compensation claim.

Please be advised that we are denying liability for the above workers compensation claim pending investigation.

Enclosed you will find a medical authorization form. Please have Ms. ██████████ complete the information and return it to our office. We would also like your permission to obtain a telephone recorded interview from Ms. ██████████ regarding her condition.

Please contact me at your earliest convenience to discuss the details of this claim. By copy of this letter, we are notifying the medical provider that we are unable to honor payment on any bills pending investigation.

Thank you for your consideration of this letter. Should you have any questions please do not hesitate to contact me.

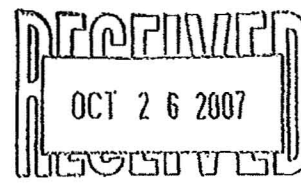
Sincerely,
Fairmont Specialty

██████████
DICTATED BUT NOT REVIEWED

██████████
Senior Claims Technical Specialist
(808) 526-1631

SH/lp

C: Dr. ██████████
DCD



Fairmont Specialty

a division of Crum&Forster



September 15, 2008

Crum & Forster Indemnity Company
United States Fire Insurance Company
The North River Insurance Company

Pacific Guardian Life
1440 Kapiolani Blvd.
Honolulu, HI 96814
Attn: Gary Fujitani

Re: Employee : [REDACTED]
Employer : [REDACTED]
Date of Injury : 9/22/06
Claim Number: [REDACTED]
DCD Number : [REDACTED]

Dear Mr. Fujitani:

Please be advised that we have accepted liability for the above workers compensation claim. We will be sending you a check under separate cover for \$1938.24 for reimbursement of TDI benefits.

Should you have any questions or concerns please do not hesitate to contact me.

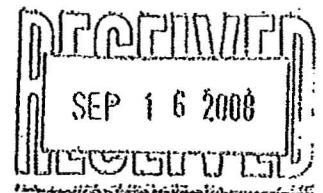
Sincerely,
Fairmont Specialty

[REDACTED]
DICTATED BUT NOT REVIEWED

[REDACTED]
Senior Claims Technical Specialist
(808) 526-1631

SH/lp

C: [REDACTED], Esq./Wong & Oshima
Douglas Moore, Esq.
DCD



March 8, 2010

House of Representatives
The Twenty-fifth Legislature

Committee on Labor and Public Employment
Representative Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair and Committee members
Hearing March 9, 2010 at 9:30 a.m. Conference Room 309

Testimony in support of SB 2339 SD1

We are in support of SB 2339 SD1

My name is Laurie H. Hamano, Vocational Rehabilitation Counselor as well as President of Vocational Management Consultants, Inc. The following signatures below indicate the support of VMC of this bill. We have seen too many cases that are consistently prolonged due to the carrier's indication that they are "investigating the case, or denying the case" and once the hearing has been held, the injured worker then has their case opened after a long period of waiting without compensation or medical treatment. We have seen that more than likely these workers' injuries are worsened by the lack of treatment and time lapse. Many of them must fall to other resources such as the Welfare system and the Social Security Disability system when they have not received the treatment or benefits from the start of the injury. This then causes the cost shifting to our other resources when the injured worker's recovery should have been paid by the insurance company of injury.

Please pass this bill.

Testimony for SB 2566 (SSCR2383) Relating to Medical and Rehabilitation Benefits

We are in support of SB 2566 AS ORIGINALLY WRITTEN WITHOUT THE AMENDMENT

Those signing below also support the next bill that clarifies that the physician's ability to conduct diagnostic testing or engage in a one-time consultation. Please allow these physicians to do their job and not tie their hands as to where they refer. We need these doctors in the system and by adding or tying their hands in any way decreases their ability to do their jobs. Please allow this bill to pass without the amendment.

Thank you for the opportunity to address this committee.

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March 8, 2010

House of Representatives
The Twenty-fifth Legislature
Committee on Labor and Public Employment
Representative Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair
and Committee members

Re: Hearing March 9, 2010 at 9:30 a.m. Conference Room 309

SB 2339 SD1 - Testimony in strong support

Testimony:

This proposed legislation will save money for small businesses and reduce work injury costs by expediting the initial decision making related to case acceptance. The bill provides the insurance carriers with sufficient time to investigate initial injury claims but requires timely responses if the claim is not accepted within a reasonable time period.


Currently employers/carriers are allowed multiple extensions of time to decide whether to accept a claim. This results in wasted weekly benefit costs when the claim is finally accepted since medical treatment, rehabilitation and a return to work are all delayed in these claims.

The proposed legislation will result in work injury costs being reduced and in stop-loss time being reduced due to the prompt provision of medical treatment soon after a work injury occurs.

Please affirm this important improvement to Hawaii's Workers' Compensation Statutes.

Thank you for the opportunity to address this committee.

Sincerely,



JOSEPH F. ZUIKER
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Cc: File

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March 8, 2010

TESTIMONY IN SUPPORT OF SB 2339

Under the present statute and as practiced by the Department of Labor and Industrial Relations, extensions of time “to investigate” denials of compensability are routinely granted. Most frequently, such extensions are not for the purpose of investigation but to obtain an “independent” medical examination. The parentheses are purposeful, as it is well known that a select cadre of reliably-biased examiners are chosen to provide an after-the-fact justification for denial of compensability.

Often no investigation whatsoever is conducted, and the delay is an appalling failure of the present law. The following is one of many, many cases of delay experienced by my injured worker clients.

Eric (pseudonym), was a manual laborer in construction, who tried to represent himself in the face of a denial of compensability by HEMIC. His employer did not doubt that Eric had injured himself as Eric had so reported a few days after the accident. He continued working despite his injury, but was disabled after the injury was confirmed and a certificate of disability issued by his treating physician. A month after the doctor's report was sent to HEMIC liability was denied, and no disability payments or treatment were approved. A routine extension “for investigation” was requested and granted. Eric retained my services when he had exhausted temporary disability payments (TDI).

Six months elapsed before a hearing was scheduled. HEMIC appeared by its adjuster **without further documentation or reason for denial** and requested a continuance which was unfortunately granted by the hearing officer over claimant's strenuous objection.

It was not until over six months thereafter and a **second hearing** that the Director of Labor and Industrial Relations issued a decision recognizing compensability. Partial payments were made, but a **third hearing** was necessitated by failure to continue payments for disability for a period of five months. A third request at the third hearing was made for attorney fees for “unreasonable defense” and finally awarded, but the case was appealed by HEMIC.

The pattern of unpaid disability and delayed treatment is a regular occurrence in my practice and that of other workers' compensation practitioners. Many of my clients lose their residences and are driven to psychological treatment and anger management

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as a result of injuries which are not of their fault and experience great difficulty returning to productive employment. This glaring defect in the law needs to be corrected.

The committee is urged to pass this bill.

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March 7, 2010

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair

Rep. Kyle T. Yamashita, Vice Chair

HEARING

DATE: Tuesday, March 9, 2010

TIME: 9:30 A.M.

PLACE: Conference Room 309

Dear Chair Rhoads and members of the Committee:

My name is Dr. Gary Saito, DC, and I represent the Hawaii State Chiropractic Association as its President. We stand in favor of SB 2339.

For years, many of our injured employees were deprived of timely and appropriate medical care by unnecessary and unjustified delays in the approval process by employer groups and insurers. Delays can run from a month to a year. Employers have been able to delay treatments because nothing right now requires them to explain the reason for the delay or explain why they have cause to delay authorizing treatments.

Reasonable and appropriate treatments are statutorily required for legitimate injuries, but the law fails to insure that treatments are begun in a timely manner. Using this loophole, employers and insurers employ tactics to restrict or delay or deny treatments. Injured employees remain injured in that time, lose days at work, lose income, and face real-life difficulties when their reduced incomes cannot keep up with the expenses of their lives. Such hardship on injured workers because of delays in treatment authorizations is unconscionable.

We urge you to support SB 2339 and send the message that injured workers are assured to access to treatment and that there are consequences for the frivolous delay or denial of such treatments. Thank you for accepting our testimony.

Dr. Gary Saito, DC
President, HSCA