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**A BILL FOR AN ACT**

RELATING TO MEDICAL BENEFITS UNDER THE WORKERS' COMPENSATION  
LAW.

**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 applicable to  
11 Hawaii as prepared by the United States Department of Health and  
12 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,

H.B. NO. 2583

1 accommodation, product, or service existing as of June 29, 1995,  
2 is not covered under the medicare program, the director, at any  
3 time, may establish an additional fee schedule or schedules not  
4 exceeding the prevalent charge for fees for services actually  
5 received by providers of health care services, to cover charges  
6 for that treatment, accommodation, product, or service. If no  
7 prevalent charge for a fee for service has been established for  
8 a given service or procedure, the director shall adopt a  
9 reasonable rate which shall be the same for all providers of  
10 health care services to be paid for that service or procedure.

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

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

18 (2) A statistically valid survey by the director of  
19 prevalent charges for fees for services actually  
20 received by providers of health care services or based  
21 upon the information provided to the director by the

H.B. NO. 2583

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 employee and the employer  
10 or the employer's insurer regarding the proposed treatment plan  
11 or whether medical services should be continued, the employee  
12 shall continue to receive essential medical services prescribed  
13 by the treating physician necessary to prevent deterioration of  
14 the employee's condition or further injury until the director  
15 issues a decision on whether the employee's medical treatment  
16 should be continued. [~~The~~] Notwithstanding section 386-86, the  
17 director shall make a decision without a hearing within thirty  
18 days of the filing of a dispute. If the director determines  
19 that medical services pursuant to the treatment plan should be  
20 or should have been discontinued, the director shall designate  
21 the date after which medical services for that treatment plan  
22 are denied. The employer or the employer's insurer may recover

H.B. NO. 2583

1 from the employee's personal health care provider qualified  
2 pursuant to section 386-27, or from any other appropriate  
3 occupational or non-occupational insurer, all the sums paid for  
4 medical services rendered after the date designated by the  
5 director. Under no circumstances shall the employee be charged  
6 for the disallowed services, unless the services were obtained  
7 in violation of section 386-98. The attending physician,  
8 employee, employer, or insurance carrier may request in writing  
9 that the director review the denial of the treatment plan or the  
10 continuation of medical services."

11 SECTION 2. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Cabern King

BY REQUEST  
JAN 23 2012

# H.B. NO. 2583

**Report Title:**

Workers' Compensation Medical Treatment; Decisions; Denial of

**Description:**

Amends section 386-21(c), Hawaii Revised Statutes, by requiring the Director of Labor and Industrial Relations to make a decision on disputes regarding treatment plans and continued medical services without a hearing.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

HB 2583

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO MEDICAL BENEFITS UNDER THE WORKERS' COMPENSATION LAW.

PURPOSE: To allow the Director of Labor and Industrial Relations to make a decision, without a hearing, within thirty days of the filing of a dispute between an employee and the employer or the employer's insurer regarding a proposed treatment plan or whether medical services should be continued.

MEANS: Amend section 386-21(c), Hawaii Revised Statutes.

JUSTIFICATION: When a dispute is filed regarding a proposed treatment plan or whether medical services should be continued, the director is required to make a decision within thirty days of the filing of the dispute. Due to the reduction of staff as a result of budget cuts, it currently takes three to four months to schedule a hearing, notice the parties, conduct the hearing, and render a decision.

This bill will allow the director to better meet the 30-day deadline.

Impact to the public: Injured workers, insurance carriers and employers will obtain more prompt decisions as to whether medical services will continue or whether a treatment plan will be approved or denied. This amendment will also reduce the number of hearings scheduled allowing other hearings to be scheduled more quickly.

Impact on the department and other agencies:  
None.

*HB2583*

GENERAL FUND:           None.  
OTHER FUNDS:           None.  
PPBS PROGRAM  
  DESIGNATION:         LBR-183.  
OTHER AFFECTED  
  AGENCIES:           None.  
EFFECTIVE DATE:        Upon approval.