

III. COMMENTS ON THE HOUSE BILL

The Department supports the intent of increasing the allowable charges for medical care, services and supplies above the current one hundred ten percent (110%). We offer the following comments:

1. ACT 234, effective June 29, 1995 amended Section 386-21 to provide that charges for services shall not exceed 110% of Medicare Resource Based Relative Value Scale system. Act 234 was implemented in response to physicians' concerns that reimbursement rates were too low. Over time, the reimbursement rates of providers have failed to keep pace with the higher costs of medical care, leading some physicians to opt out of providing treatment to injured workers in the workers' compensation system.
2. The Department is aware that any increase in reimbursement to medical providers may result in additional cost and higher insurance fee premiums for employers. The Department notes that from 2005 - 2010, Workers' Compensation premium levels have cumulatively decreased by 69%. This trend of decreasing premiums may be reversing, however, as evidenced by the leveling of premium costs last year.
3. The Department believes a reimbursement of 110% of Medicare to medical providers who treat injured workers is inadequate. The Department, however, has some concerns health care providers who are already adequately compensated for their services would receive an increase in allowable charges if the ceiling for charges were raised to 130% of Medicare.

The Department can and has adjusted reimbursement rates based upon surveys of prevalent charges when the surveys indicated reimbursement rates were higher than Medicare. Changes to reimbursement rates are made to the Department's Supplemental Fee Schedule known as Exhibit A of the Medical Fee Schedule Administrative rules. The previous administration failed to update the Medical Fee Schedule on a regular basis.

4. As an alternative approach to an across-the-board increase in allowable charges to 130% of Medicare reimbursement rates, the department suggests the legislature consider providing some relief attached to a comprehensive study. The Office of the Auditor or the Legislative Reference Bureau could analyze the long-term fiscal impact of this relief in the context this adjustment would have on the overall medical costs of the workers' compensation system.
5. The Department defers to DHRD regarding the cost implications on State funds appropriated for workers' compensation.



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

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February 16, 2012

To: The Honorable Angus L. K. McKelvey, Chair, Isaac Choy, Vice Chair,
and Members of the House Committee on Economic Revitalization &
Business

Date: Thursday, February 16, 2012

Time: 10:30 a.m.

Place: Conference Room 312, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

Re: H.B. No. 2152 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

House Bill 2152 proposes to amend section 386-21, Hawaii Revised Statutes (HRS), by increasing the charges for medical care, services and supplies to not exceed one hundred thirty (130%) percent of fees prescribed in the Medicare Resources Based Relative Value Scale System applicable to Hawaii, effective January 1, 2013.

The Department of Labor & Industrial Relations ("Department") supports the intent of this bill. We believe low reimbursement rates to providers adversely affect the number of physicians willing to treat Hawaii's injured workers.

II. CURRENT LAW

Section 386-21, HRS, allows for charges for medical care, services and supplies to not exceed one hundred ten percent (110%) of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

Section 386-21, HRS, also allows the director to increase fees for specific services if the fees provided under Medicare are not reasonable. The department may adjust reimbursement rates through Exhibit A of the Workers' Compensation Medical Fee Schedule Administrative Rules when surveys indicate that Medicare plus 10% is not sufficient reimbursement for health care treatment.

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
INTERIM DIRECTOR

DEPUTY DIRECTOR

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

February 14, 2012

TESTIMONY TO THE
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS

For Hearing on Thursday, February 16, 2012
10:30 a.m., Conference Room 312

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

House Bill No. 2152
Relating to Workers' Compensation

TO CHAIRPERSON ANGUS MCKELVEY AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 2152.

The purpose of H.B. 2152 is to increase the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. **In that regard, DHRD appreciates the intent of this bill, but is concerned about its significant cost implications on State funds appropriated for workers' compensation.**

We are aware that more physicians and medical providers are opting not to accept workers' compensation patients due to a variety of factors, including the limits on payments allowed under the statute and the administrative burdens of providing treatment to a claimant. This bill would provide a financial incentive for more providers

to accept claimants as patients. We believe that having more physicians and medical providers participating in workers' compensation would lead to more choices, better quality, and more timely provision of services to our injured workers.

However, the fiscal impact of the proposed 18% increase in the reimbursement for medical care, services, and supplies that fall under the Medicare fee schedule will be significant. Over the years, medical care has by far been the most expensive cost item in our workers' compensation program, consistently averaging at least 40% of our total costs. An across-the-board increase for services that fall under the Medicare fee schedule will drive our medical costs higher and will likely require an increase in our appropriation to pay claims under Chapter 386.

We note that Section 386-21, HRS, authorizes the Director of the Department of Labor and Industrial Relations to issue a supplemental fee schedule if the director determines that an allowance for a specific service under Medicare is not reasonable. As an alternative to this bill, we suggest that the Department of Labor and Industrial Relations be given the time and latitude to continue its ongoing and commendable efforts to gather the input of all workers' compensation stakeholders to address the many issues facing our current system--including the number of participating physicians. Should the DLIR believe any allowances need to be adjusted, all stakeholders would have the opportunity to provide their input.

We are also in accord with the DLIR's testimony before the House Committee on Labor and Public Employment which suggested the Legislature provide some relief attached to a comprehensive study of the long-term fiscal impact H.B. 2152 would have on the overall medical costs of the workers' compensation system as an alternative to an across-the-board increase in the Medicare reimbursement rates.

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

Rep. Angus L.K. McElvey, Chair
Rep. Issac W. Choy, Vice Chair

Hearing: Thursday, February 16, 2012
Time: 10:30 a.m.
Place: Conference Room 312, State Capitol

TESTIMONY OF ILWU LOCAL 142

RE: HB 2152, RELATING TO WORKERS' COMPENSATION

Chair McElvey, Vice Chair Choy, Members of the Committee:

Thank you for the opportunity to present testimony regarding HB 2152. We support this bill.

Access to quality medical care is perhaps the single most important factor in the successful functioning of our workers' compensation system. Effective medical care enables injured workers to resume productive lives or to make the necessary adaptations to transition to other occupations. Sound medical treatment also permits employers and insurers to minimize their expenses in paying for lengthy temporary or permanent disability.

At present, effective medical care is not available to all injured workers because the level of compensation received by those physicians willing to take workers' compensation is below that paid for regular prepaid health insurance. When the lower rate of reimbursement is coupled with administrative requirements for claims documentation and the added time this entails, many medical providers are simply refusing to accept workers' compensation patients. The result is that injured workers can go untreated or cannot access quality medical care. Our best and busiest physicians can build successful practices without workers' compensation patients and thus they care often the least available to care for injured workers.

HB 212 would go far to correct the inadequate compensation of medical providers in the workers' compensation arena by increasing the base for compensation from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale. No significant adjustments in this compensation have been made for an extended time period, and thus, enhancement is justified merely to keep pace with inflation, if for no other reason.

Accordingly, we urge that HB 2152 be approved, as it will not only increase the availability of quality medical care, but in the long run sure more stable and economical overall system of coverage.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF H.B NO. 2152**

February 16, 2012

To: Chairman Angus McKelvey and Members of the House Committee on Economic Revitalization and Business:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in support of H.B. NO.2152, relating to workers' compensation.

H.B. No. 2152 increases the workers' compensation fee schedule for medical treatment and services rendered to injured workers. It has become increasingly difficult to find doctors willing to accept patients covered by the workers' compensation fee schedule because of the low reimbursement and increased paperwork associated with processing workers' compensation claims. Many doctors do not have sufficient billing staff and are unable to hire additional staff to handle workers' compensation billing given the current level of reimbursement.

Often, injured workers cannot continue treatment with their family doctor who is most familiar with their condition and other medical issues that should be best handled or coordinated by a single provider. The result can be inconsistent or even conflicting medical treatment and advice from a family doctor providing care under traditional health insurance and another doctor providing care under workers' compensation. In some cases, injured workers cannot find doctors to treat them under the workers' compensation fee schedule and face critical delays in obtaining treatment or are unable to receive treatment from appropriate specialists.

Hawaii has a much higher cost of living than most states and reimbursement levels commensurate with the cost of doing business and living in Hawaii are necessary to recruit and retain doctors and other healthcare providers. Increasing the workers' compensation fee schedule is an important factor in providing fair reimbursement for Hawaii's doctors, which in turn, provides better medical care for our injured workers.

Thank you for allowing me to testify in support of this measure. Please feel free to contact me should you have any questions or desire additional information.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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TO: Representative Angus L.K. McKelvey
Chair, Committee on Economic Revitalization & Business
Via Email: ERBtestimony@capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: February 15, 2012

RE: H.B. 2152 – Relating to Workers' Compensation
Hearing: Thursday, February 16, 2012 at 10:30 a.m.
Conference Room 312

Attached is written testimony from our client, the American Insurance Association, regarding H.B. 2152.

Thank you

Attachment.

Testimony of
American Insurance Association
1015 K Street, Suite 200
Sacramento, California 95814 - 3803

TO: Representative Angus L.K. McKelvey
Chair, Committee on Economic Revitalization & Business
Via Email: ERBtestimony@capitol.hawaii.gov

DATE: February 15, 2012

RE: **H.B. 2152 – Relating to Workers’ Compensation**
Hearing: Thursday, February 16, 2012 at 10:30 a.m.
Conference Room 312

The American Insurance Association (AIA) respectfully opposes H.B. 2152, Relating to Workers’ Compensation.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

H.B. 2152 would increase the workers’ compensation fee schedule for medical care, services, and supplies from 110 percent to 130 percent of the United States Department of Health and Human Services Medicare Resource Based Relative Value Scale (RBRVS) applicable to Hawaii.

Our concern is based on the fact that additional costs in the workers’ compensation system ultimately must be borne by employers and other system payors. In the current economic environment, and with medical cost inflation, an additional upward pressure on medical costs should be avoided.

For the reasons stated above, we respectfully ask that you hold H.B. 2152. Thank you for the opportunity to submit testimony.

Steven Suchil
Assistant Vice President/Counsel
State Affairs
Western Region

TESTIMONY BEFORE THE HOUSE COMMITTEE ON

ECONOMIC REVITALIZATION & BUSINESS

Thursday, February 16, 2012

10:30 a.m.

HB 2152

RELATING TO WORKERS' COMPENSATION

By Marleen Silva

Director, Workers' Compensation

Hawaiian Electric Company, Inc.

Chair McKelvey, Vice Chair Choy, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, Ltd., and Hawaii Electric Light Company, Inc. **respectfully oppose H.B. 2152.** Our companies represent over 2,000 employees.

This bill proposes to amend Section 386-21, HRS automatically increasing across the board the fee schedule of compensation for medical care in workers' compensation cases from 110% to 130% of the Medicare Resource Based Relative Value Scale system applicable to Hawaii. We oppose it as being unnecessary and as overly broad in its approach.

The existing statutes already have a process in place to allow the Director of the Department of Labor and Industrial Relations to create an additional fee schedule, or adjust the allowable fees at any time. Health care providers can already also submit proposals, with supporting evidence, to the Director to review and determine if a change to their reimbursement rate is warranted.

We recognize that reimbursement rates may have discouraged physicians in some medical specialty areas to treat work injuries, and that subsequently has had a direct impact on the pool of qualified physicians available in the workers' compensation system. However, the solution to this issue is not to take the broad brush approach to increase the medical fee schedule automatically and across the board. Instead, a study should be conducted to identify such medical specialty areas impacted and the degree to which impacted. The medical fee schedule could then be adjusted more appropriately to such area of identified need rather than raise the costs of workers' compensation as a whole unnecessarily and unfairly.

Also of note is that the bill's broad brush approach will similarly raise the costs of motor vehicle insurance for consumers. The workers' compensation fee schedule is also used to form the costs for motor vehicle insurance. Should the medical fee schedule be increased, consumers can similarly expect to see an increase in the costs of motor vehicle insurance even in already challenging economic conditions.

For these reasons, we respectfully oppose H.B. 2152 and request that this measure be held.

Thank you for this opportunity to submit testimony.



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Representative Angus L.K. McKelvey, Chair
Representative Isaac W. Choy, Vice Chair

Thursday, February 16, 2012
10:30 a.m.

HB 2152

Chair McKelvey, Vice Chair Choy, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 2152. This bill increases the medical fee schedule reimbursement from 110% of Medicare to 130% of Medicare. We believe this bill is unnecessary because both the Director of the Department of Labor and Industrial Relations and the Insurance Commissioner have the ability to increase reimbursements. In fact, in 2006, the Department of Labor and Industrial Relations adjusted fees for approximately 1,300 CPT codes. The National Council on Compensation Insurance (NCCI) has recently estimated that this bill would increase workers' compensation costs by 3.4% overall or \$6.2 million (see attached).

For the past several years, workers' compensation premiums have dropped dramatically, to around 50% of what they were a few years ago. However, the trend has changed and loss costs are increasing. The Insurance Commissioner approved a

3.6% loss cost increase effective January 1, 2012. This means that pure losses for workers' compensation are increasing and therefore premiums are increasing. This bill will add costs to a system where decreasing trends appear to be over.

In addition, an across the board increase will adversely affect motor vehicle insurance costs. While the initial increase to personal injury protection (PIP) coverage may be small, PIP costs will drive higher bodily injury liability costs, uninsured motorist coverage costs, and underinsured motorist costs.

For these reasons, we respectfully request that HB 2152 be held.

Thank you for the opportunity to testify.



**ANALYSIS OF HAWAII
HOUSE BILL 2152 / SENATE BILL 2204
As Introduced on January 20, 2012**

NCCI estimates that the impact of the changes to the Hawaii workers compensation physician fee schedule, proposed in Hawaii House Bill (HB) 2152 / Senate Bill (SB) 2204 to be effective January 1, 2013, would have a +3.4% (\$6.2M¹) impact on overall workers compensation system costs in Hawaii. This impact may change significantly as it does not include the Medicare changes effective January 1, 2013 or changes to Hawaii's Supplemental Medical Fee Schedule which are not yet available.

Summary of Changes

HB 2152/SB 2204 proposes that the Hawaii physician fee schedule be based partially on 130% of Medicare's Resource Based Relative Value Scale (RBRVS) and partially on the Hawaii administrative rule (Chapter 12-15 Exhibit A) known as the Supplemental Medical Fee Schedule (SMFS). Currently, the Hawaii physician fee schedule is based partially on 110% of Medicare's RBRVS and partially on the Hawaii SMFS. This bill also proposes to have the Hawaii Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule be based on 130% of Medicare DMEPOS instead of the current 110% of Medicare DMEPOS.

Based on Hawaii workers compensation data licensed to NCCI for service years 2009 and 2010, those costs subject to the current SMFS represent 24.1% of total physician costs; the costs subject to 110% Medicare's RBRVS represent 72.2% of total physician costs and the remaining 3.7% of physician costs is not subject to the physician fee schedule.

Actuarial Analysis

Physicians Fee Schedule

NCCI's methodology assumes that the difference between the current and proposed Maximum Allowable Reimbursement (MARs) for each procedure is a reasonable estimate of the actual difference in costs due to the proposed changes in the fee schedule.

The MAR for each procedure under the current and proposed physician fee schedule was calculated as follows:

Current Reimbursement:

Non-Anesthesia Services:

$$\text{MAR} = \{ [(\text{Work RVU} \times \text{GPCI}_{\text{Work}})] + (\text{PE RVU} \times \text{GPCI}_{\text{PE}}) + (\text{MP RVU} \times \text{GPCI}_{\text{MP}}) \} \times \text{Medicare Conversion Factor (CF)} \times 110\%$$

¹ Overall system costs are based on NAIC Annual Statement data as provided by A.M. Best. The estimated dollar impact is the percent impact displayed multiplied by the average of the A.M. Best 2009-2010 written premium of \$184M for Hawaii. This figure does not include self-insurance, the policyholder retained portion of deductible policies, or adjustments for subsequent changes in premium levels. The use of premium as the basis for the dollar impact assumes that expenses and other premium adjustments will be affected proportionally to the change in benefit costs. The dollar impact on overall system costs inclusive of self-insurance is estimated to be \$9.5M, where data on self-insurance is approximated using the National Academy of Social Insurance's 2009 publication "Workers Compensation: Benefits, Coverages, and Costs."



**ANALYSIS OF HAWAII
HOUSE BILL 2152 / SENATE BILL 2204
As Introduced on January 20, 2012**

SMFS MAR = RVU Published in the Hawaii SMFS x Conversion Factor of \$33.54

Where: RVU = Medicare's Relative Value Unit for Physicians,
GPCI = Medicare's Geographic Practice Cost Index
PE = Practice Expense
MP = Medical Malpractice Insurance
2011 Medicare CF = \$33.9764

Anesthesia Services:

MAR = (Base Units + Time Units) x Medicare Anesthesia CF x 110%

Where: 2011 Medicare Anesthesia CF = \$21.01

Proposed Reimbursement:

Non-Anesthesia Services:

**MAR = { [(Work RVU x GPCI_{Work})] + (PE RVU x GPCI_{PE}) + (MP RVU x GPCI_{MP}) } x
Medicare Conversion Factor (CF) x 130%**

SMFS MAR = RVU Published In the Hawaii SMFS x Conversion Factor of \$33.54

Where: RVU = Medicare's Relative Value Unit for Physicians,
GPCI = Medicare's Geographic Practice Cost Index
PE = Practice Expense
MP = Medical Malpractice Insurance
2011 Medicare CF = \$33.9764

Anesthesia Services:

MAR = (Base Units + Time Units) x Medicare Anesthesia CF x 130%

Where: 2011 Medicare Anesthesia CF = \$21.01

Note: The Medicare physician fee schedule that became effective 1/1/2011 is used in calculating the current and proposed reimbursements for procedures which are subject to the Medicare fee schedule. The SMFS that became effective 2/28/2011 is used for the procedures which are subject to the SMFS.

The current and proposed cost for each procedure is the MAR multiplied by the Hawaii frequency for that procedure based on workers compensation data licensed to NCCI for service years 2009 and 2010. The estimated impact on costs subject to the physician fee schedule is the ratio of the total costs of procedures under the proposed fee schedule to the total costs of procedures under the current fee schedule. The direct impact on physician costs due to the proposed physician fee schedule is +13.7%.



**ANALYSIS OF HAWAII
HOUSE BILL 2152 / SENATE BILL 2204
As Introduced on January 20, 2012**

The impacts by service category of the proposed physician fee schedule are shown below:

Service Category	Distribution of Costs²	Impact Due to Proposed Fee Schedule
Anesthesia	0.9%	+18.2%
Surgery	17.4%	+4.4%
Radiology	15.1%	+10.7%
Pathology	0.4%	+18.2%
Psychological	0.9%	+0.1%
General Medicine	2.0%	+12.3%
Physical Medicine	33.9%	+18.2%
Chiropractic	1.9%	+12.1%
Evaluation & Management	27.5%	+16.1%
Total Physician Costs	100.0%	+13.7%

The above impact on physician costs is then multiplied by the Hawaii percentage of medical costs that are subject to the physician fee schedule (52.5%²) to arrive at the impact on medical costs in Hawaii. The resulting impact on medical costs is then multiplied by the percentage of Hawaii benefit costs comprised of medical costs (46.8%³) to arrive at the impact on Hawaii overall workers compensation costs of +3.4% (\$6.2M).

Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)

DMEPOS costs in Hawaii represent 0.5%² of medical costs. To estimate the impact of the DMEPOS fee schedule change, NCCI compared DMEPOS costs using the current fee schedule to DMEPOS costs using the proposed fee schedule. The direct impact on DMEPOS costs is +18.2%. This impact on DMEPOS costs is then multiplied by the Hawaii percentage of medical costs that are subject to the DMEPOS fee schedule (0.5%²) to arrive at a +0.1% impact on total medical costs and a negligible impact on overall workers compensation costs in Hawaii.

² Based on Hawaii workers compensation data licensed to NCCI for service years 2009 and 2010.

³ Based on Policy Years 2007-2009 Financial Call data projected to 1/1/2013.



National
Council on
Compensation
Insurance, Inc.

**ANALYSIS OF HAWAII
HOUSE BILL 2152 / SENATE BILL 2204
As Introduced on January 20, 2012**

Summary of Impacts

The impacts due to the proposed changes in fee schedules are summarized in the following table:

		Impact
(1)	Impact on Physician Costs Due to Proposed Fee Schedule Changes	+13.7%
(2)	Physician Costs as of % of Medical Costs in Hawaii	52.5% ²
(3)	Impact on DMEPOS Costs Due to Proposed Fee Schedule Changes	+18.2%
(4)	DMEPOS Costs as of % of Medical Costs in Hawaii	0.5% ²
(5)	Impact of Proposed Fee Schedule Changes on Medical Costs In Hawaii = (1) x (2) + (3) x (4)	+7.3%
(6)	Medical Costs as % of Total Workers Compensation Benefit Costs in Hawaii	46.8% ³
(7)	Impact on Overall Workers Compensation System Costs In Hawaii due to Proposed Fee Schedule Changes (5) x (6)	+3.4%

² Based on Hawaii workers compensation data licensed to NCCI for service years 2009 and 2010.

³ Based on Policy Years 2007-2009 Financial Call data projected to 1/1/2013.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII
711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: tdayton@geico.com
Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

House Committee on Economic Revitalization & Business
Conference Room 312 State Capitol
Friday, February 16, 2012, 10:30 a.m.
HB 2152 – Relating to the Medical Fee Schedule

Chair McKelvey, Vice-Chair Choy and Members of the ER & B Committee:

My name is Timothy Dayton and I am General Manager for GEICO.

GEICO opposes HB 2152 as it relates to Motor Vehicle Personal Injury

Protection Benefits which use the Medical Fee Schedule under current law. Unlike the reported problems with Workers Compensation, GEICO's Hawaii customers are not experiencing significant problems in finding medical providers under PIP.

Furthermore, GEICO is currently seeing a significant rise in the average loss payments under Hawaii PIP. This Bill as drafted will increase the cost of treatment across the board by 18%. Another problem with the legislation is that it increases cost for every treatment whether or not it is justified or needed. For example, massage therapists are plentiful and massage represents a significant use of PIP benefits. It is hard to rationalize increasing the reimbursement for massage.

Higher PIP payments will have a ripple effect on Bodily Injury, Uninsured

Motorist and Under Insured Motorist coverages. The impact on those who qualify for a tort recovery will be immediate unless the \$5,000 tort threshold is increased.

If HB 2152 is passed as is, GEICO will promptly initiate an analysis of our rates in Hawaii. I believe that this will result in a rate increase for all of our policyholders. GEICO's customers represent approximately 30% of Hawaii households that have insured autos.

I respectfully request that the Committee either hold this Bill or eliminate the impact on Hawaii automobile insurance. I believe that PCI will be submitting proposed language to relieve PIP from this increase and GEICO supports their proposal. Thank you for the opportunity to submit this testimony.

A handwritten signature in black ink, appearing to read "Timothy M. Dayton", with a long horizontal flourish extending to the right.

Timothy M. Dayton, CPCU

SECTION 1. The legislature finds that regulating markups of repackaged prescription drugs and compound medications will help to contain unreasonable increases of prescription drug costs in Hawaii's workers' compensation insurance and motor vehicle insurance systems as repackagers expand into states, including Hawaii, where costs of repackaged drugs and compound medications are not regulated.

The legislature further finds that Hawaii's current reimbursement rate for pharmaceuticals is the highest in the nation for both brand and generic products.

The purpose of this Act is to close a loophole in Hawaii's workers' compensation insurance and motor vehicle insurance laws to reasonably restrict markups of repackaged prescription drugs and compound medications to what is currently authorized for retail pharmacies under state law.

PLEASE
DO NOT
STAPLE
IN THIS
AREA

I certify all charges are in accordance
with HAR 16-23-116 and any
related rules.

GEICO
711 KAPIOLANI BLVD 300
HONOLULU, HI 96814
ATTN: CLAIMS DEPARTMENT

Handwritten: 07956
P158

HEALTH INSURANCE CLAIM FORM

1. MEDICARE <input type="checkbox"/> MEDICAID <input type="checkbox"/> CHAMPUS <input type="checkbox"/> CHAMPVA <input type="checkbox"/> GROUP HEALTH PLAN (SSN or ID) <input type="checkbox"/> FECA BLK LUNG (SSN) <input checked="" type="checkbox"/> OTHER <input type="checkbox"/> (10)		1a. INSURED'S LD. NUMBER (FOR PROGRAM IN ITEM 1)	
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) DONNA J		4. INSURED'S NAME (Last Name, First Name, Middle Initial)	
3. PATIENT'S BIRTH DATE MM DD YY [REDACTED]		7. INSURED'S ADDRESS (No., Street)	
5. PATIENT'S ADDRESS (No., Street) [REDACTED]		8. PATIENT STATUS Single <input type="checkbox"/> Married <input type="checkbox"/> Other <input checked="" type="checkbox"/>	
6. PATIENT RELATIONSHIP TO INSURED Self <input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Other <input checked="" type="checkbox"/>		9. PATIENT'S EMPLOYMENT Employed <input checked="" type="checkbox"/> Full-Time Student <input type="checkbox"/> Part-Time Student <input type="checkbox"/>	
7. INSURED'S CITY, STATE, ZIP CODE [REDACTED] HI [REDACTED]		10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (CURRENT OR PREVIOUS) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO b. AUTO ACCIDENT? PLACE (State) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO HI c. OTHER ACCIDENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
8. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)		11. INSURED'S POLICY GROUP OR FECA NUMBER 03087571801010	
9. OTHER INSURED'S POLICY OR GROUP NUMBER		12. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, return to and complete items 9 a-d.	
10. OTHER INSURED'S DATE OF BIRTH MM DD YY SEX M <input type="checkbox"/> F <input type="checkbox"/>		13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.	
11. OTHER INSURED'S EMPLOYER'S NAME OR SCHOOL NAME		14. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP) MM DD YY 05 21 2010	
12. EMPLOYER'S NAME OR SCHOOL NAME		15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS GIVE FIRST DATE MM DD YY BM9810222	
13. INSURANCE PLAN NAME OR PROGRAM NAME		16. DAYS PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY	
14. INSURANCE PLAN NAME OR PROGRAM NAME		17. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY	
15. READ BACK OF FORM BEFORE COMPLETING & SIGNING THIS FORM		18. OUTSIDE LAB? \$ CHARGES <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
16. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.		19. MEDICAID RESUBMISSION ORIGINAL REF. NO. CODE	
SIGNED SIGNATURE ON FILE DATE 07 26 2010		20. PRIOR AUTHORIZATION NUMBER	
17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE		21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 24E BY LINE)	
18. RESERVED FOR LOCAL USE		22. FEDERAL TAX ID NUMBER SSN EIN	
23. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP)		25. PATIENT'S ACCOUNT NO.	
24. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE		26. PATIENT'S ACCOUNT NO.	
25. RESERVED FOR LOCAL USE		27. ACCEPT ASSIGNMENT? (For govt. claims, see back) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
26. FEDERAL TAX ID NUMBER SSN EIN		28. TOTAL CHARGE \$ 563	
27. ACCEPT ASSIGNMENT? (For govt. claims, see back) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		29. AMOUNT PAID \$ 0.00	
28. TOTAL CHARGE \$ 563		30. BALANCE DUE \$ 563.30	
29. AMOUNT PAID \$ 0.00		31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.) 07 26 2010	
30. BALANCE DUE \$ 563.30		32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office) [REDACTED]	
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.) 07 26 2010		33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE # INDUSTRIAL PHARMACY MANAGEMENT PO BOX 512518 LOS ANGELES, CA 90051 (949) 777-3100	



PHARMACY INVOICE

PO Box 271589
Salt Lake City, UT 84127-1589
(866) 428-8679
Federal Tax ID 35-2194964

Handwritten notes: 07 956 PA58

INVOICE NO.: 1872720

INVOICE DATE: 10/25/2010

Bill To:

GEICO
PO BOX 509119
SAN DIEGO CA 92150-9119



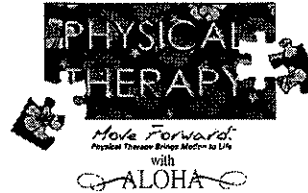
Card Holder / Injured Person

Patient: DONNA J.
Policy No.:
Claim No.: 0308757180101010

Table with columns: Fill Date, Rx No., NDC Drug Name, Compound, Refill, Qty, Days Supply, Prescriber ID, Amt Due. Includes one detailed row for CELEBREX CAP 200MG with amount \$134.99 and a TOTAL AMOUNT DUE row.

Please remit payment to AutoRx at the address printed above.

I certify charges are in compliance with Hawaii Administrative Rule 16-23 and the Medical Fee Schedule defined by HRS 431:10C-103.. AutoRx certifies that these charges are billed in accordance with Chapter 386, HRS and any related rules.



House Economic Revitalization & Business Committee
Thursday, February 16, 2012
10:30 a.m.
Room 312

RE: HB 2152 Relating to Workers' Compensation

Good morning, Chair McKelvey, Vice- Chair Choy and members of the Economic Revitalization and Business Committee. On behalf of the Hawaii Chapter, American Physical Therapy Association (“HAPTA”), we are in **support** of HB2152, relating to workers’ compensation.

This measure increases the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii as prepared by the United States Department of Health and Human Services.

Access to care for injured workers has become difficult. Many physicians no longer accept workers’ compensation patients. Straub reportedly has stopped seeing injured workers several years ago. Prior to the 50% reduction in workers’ compensation fees, they had a large, busy Occupational Medicine department. Although no formal survey has been done, estimates are that more than 80% of physicians will no longer see workers’ compensation patients. Patients who have had the same family physician for many years have to look for a new doctor if they are injured at work. This access to care problem delays treatment of injuries. Not only is it inconvenient for patients, but subjects them to needlessly suffering for days or weeks before care can be started.

We believe that this measure is an important step toward a more comprehensive solution to the issues affecting physician acceptance of workers’ compensation payments.

HAPTA is a non-profit professional organization serving more than 250 member Physical Therapists and Physical Therapist Assistants. Our mission is to be the principal membership organization that represents and promotes the profession of Physical Therapy in the State of Hawaii.

Mahalo,

Ann Frost, P.T.
Legislative Committee Chair

DENNIS W. S. CHANG

ATTORNEY-AT-LAW

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

February 15, 2012

VIA ELECTRONIC MAIL

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Angus L.K. McKelvey, Chair
Rep. Issac W. Choy, Vice-Chair
Hawaii State Capitol, Room 312

FROM: Dennis W.S. Chang
Labor and Workers' Compensation Attorney

RE: Testimony In Support to HB 2152
(Hearing: 02/16/12 at 10:30 a.m.)

Dear Honorable Chair MCKelvey and Vice-Chair Choy and Members of Committee:

POSITION

I wholeheartedly support the passage of HB No. 2152 increasing payment of medical services from 110% to 130% of Medicare. The passage of the bill is step in the right direction, but there is more that needs to be done to justly compensate the minority of currently devoted medical providers who deliver medical services to injured workers. I also submit that the arbitrarily limit of the rate of increase to only 130% is merely a temporary fix to an already broken workers' compensation system. For the extent of arduous work of all medical providers including physical therapists currently struggling with the unreasonable reimbursement rates, and those who may want to but will not get engaged in the system, the Legislature should increase the amount to 140% of Medicare. The Legislature also must find a solution of removing payment for medical services without any link to Medicare. An increase of the percentage of the Medicare Value Scale may disappear come January 1, 2013, if not sooner. A simple Google search on "decreasing Medicare Reimbursement rates" documents this.¹ There must

¹ Consider the following excerpt taken fro Wikipedia:
"The **Medicare Sustainable Growth Rate (SGR)** is a method currently used by the Centers for Medicare and Medicaid Services (CMS) in the United States to control spending by Medicare on physician services.[1] Enacted by the Balanced Budget Act of 1997 to amend Section 1848(f) of the Social Security Act, the SGR replaced the *Medicare Volume Performance Standard (MVPS)*, which was the previous method that CMS used in an attempt to control costs.[2] Generally, this is a method to ensure that the yearly increase in the expense per Medicare beneficiary does not exceed the growth in GDP.[3] Every year, the CMS sends a report to the Medicare Payment Advisory Commission, which advises the U.S. Congress on the previous year's total expenditures and the target expenditures. The report also includes a conversion factor that will change the payments for physician services for the next year in order to match the target SGR. If the expenditures for the previous year exceeded the target expenditures, then the conversion factor will decrease payments for the next year. If the expenditures were less than expected, the conversion factor would increase the payments to physicians for the next year. On March 1 of each year, the physician fee schedule is updated accordingly. The implementation of the physician fee schedule update to meet the target SGR can be suspended or adjusted by Congress,

be a clean and total breakage from any linkage to Medicare.

CRISES

After practicing as a labor attorney for nearly 35 years with a heavy concentration in handling complex workers' compensation claims, I believe that I can speak from experience. I echo the testimony and endless complaints of physicians who are excessively taxed with the onerous administrative burdens under the workers' compensation statute and Medical Fee Schedule. See previous testimonials submitted in support of increasing the cap by Hawaii Medical Association, Kaiser and, in particular Ronald L. Barozzi, Dr. Linda Rowan, Orthopedic Associates and cogent submission by Dr. Joseph Morelli, Jr. (limitations of Medicare Fee Schedule including a national perspective).

To properly deliver services they must unwittingly walk into the treatment of injured workers not knowing whether or they will be paid. There is a waiting period for the submission of the WC-1 "Employer's Report of Industrial Injury" to determine whether claims are compensable. Then, they must eventually submit treatment plans which are routinely ignored. This places medical providers in the unenviable position of either proceeding with treatment or loss of income for the delivery of medical services. They are also often hampered by other recording and reporting requirements. Even more despicable is the fact that their fees are oftentimes unduly delayed and/or compromised. At other times, they go totally unpaid for critical work *albeit* merely administrative or in advocating the need for treatment on behalf of injured workers. Understandably, they are reluctant to treat injured workers without first having an adjudication of approval or written approval from self-insured employers and insurance carriers before the delivery of any services. Countless physicians I have worked with over the years have shared their candid concerns relating to the inadequate reimbursement system.

It is ironic that the Hawai'i Supreme Court has repeatedly stated that providing workers' compensation is a cost of doing business in the State of Hawai'i but medical providers are currently shouldering the onerous burden of the costs. Even the most devoted medical providers are reluctant to remain in the workers' compensation system in light of increasing overhead and costs of living, unreasonable administrative burdens associated with treating injured workers and shrinkage or unpredictable payments for their vital medical services. Prominent physicians who have devoted their careers to caring for injured workers have reached the point of leaving or about to leave the workers' compensation system. It is no surprise that few, if any, new medical providers are willing to venture into the workers' compensation field.

APT ILLUSTRATION OF REAL LIFE CONSEQUENCES IN SUPPORT OF PASSAGE OF HB 2152 AND CHANGE

The shortage is acutely aggravated in the neighbor islands. A tragic illustration aptly demonstrates the compelling need to support HB 2152 immediately and the

as has been done regularly in the past (a **doc fix**).^[4] The estimated SGR for 2010 is -8.8%, and the conversion factor for the physician fee schedule is -21.3%.^[2] On December 16, 2010, President Obama signed the Medicare and Medicaid Extenders Act of 2010 into law, delaying the implementation of the SGR until January 1, 2012.^[5] The implementation of the conversion factor had previously been delayed until December 1, 2010.^[6] Physician groups, including the American Medical Association, lobby for a permanent reform to the SGR so that physician payment rates are not subject to annual cuts (a **permanent doc fix**).” (Footnotes omitted)

ultimately remove fees of medical providers which are linked to Medicare.

One of my clients, who is clearly totally disabled, has been unable to locate a treating physician. Without access to a medical provider, she has been unable to get any certification of her ongoing disability and, consequently, has not received her rightful legal entitlement to wage loss benefits in the form of temporary total disability benefits and vital medical care. The clinic where she was going will not treat her since she has been disabled and has been unable to pay for a private health care plan. Even if she had a private health care plan, there should be no reason to shift payment for medical care from the employer and insurance carrier under a legitimate workers' compensation claim which is not disputed. After contacting more than fifteen (15) doctors and being rejected (told workers' compensation claims involve cumbersome administrative and intense paperwork), she got so frustrated and depressed that she gave up trying. In turn, this placed the onus on me to help her find a doctor, which has additionally aggravated the situation since she is now incurring increasing attorney's fees. We have been unable to locate a physician to date on the Big Island. We are also now attempting to get her shifted to public assistance and become a ward of the State of Hawai'i. Legislators should be upset at this tragic situation and shifting of costs to the State since the obvious avoidable and needless suffering and economic ruin could have been avoided by simply increasing the reasonable fees for medical providers rather than slashing their fees in the mid 1990's (that was the beginning of the mass exodus of medical providers in the workers' compensation field).

Since I provided this illustration, I was finally able to locate a physician who is easily accessible from the airport in Honolulu. He agreed to assume care for my client who essentially begged him to help with the understanding that I would be litigating her right to change physicians. I exercised her one time right statutory right to a change physician but this was denied on the premise that there must be some physician on the Big Island who should be able to treat her. We attended a hearing this week to get the needed change in physicians approved just this week Monday, February 13, 2012. We must now wait another 60 days for a decision before a determination addressing the reinstatement of her wage loss and order for a change in physician. My client is not unique in her inability to access a medical provider which is absurd.

CONCLUSION

Opponents to this bill assert there is another mechanism to change the rates, if they are inadequate. Sadly, the prior administration has done nothing to address easing access to medical providers of all facets of medical services.

I fully endorse HB 2152. This is wholly consistent with an unwavering line of appellate rulings by the Hawai'i Supreme Court which has stated that workers' compensation is a cost of doing business. Hopefully, increasing the current cap will keep the remaining dedicated medical providers in the workers' compensation system even though they are not getting paid adequately. Increasing it to 130% of Medicare is insufficient a step in the right direction to ameliorate the hardship of medical providers and hopefully keep them in the system. More must be done, especially if we want access for all injured workers into accepting worthy patients like some of my current clients and many other untreated injured workers. We have a unique outrageous crisis in the shortage of physicians participating as medical providers, which can only be remedied by increasing the cap more and have a total breakage in the linkage to Medicare rates.

February 14, 2012

The Honorable Angus L.K. McKelvey, Chair
The Honorable Isaac W. Choy, Vice-Chair
Members of the House Economic Revitalization & Business Committee
415 South Beretania Street, Room 312
Honolulu, Hawaii 96813

Relating to: HB 2152, HSCR 141-12 Relating to Workers' Compensation

Dear Representative McKelvey and members of the Committee:

I urge you to **SUPPORT HB 2152, HSCR 141-12 Relating to Workers' Compensation.**

I am a vocational rehabilitation counselor who works with injured workers. I feel that the changes being proposed in HB 2152 appear to be in the best interest of the injured worker. Many injured workers have had a difficult time in finding qualified doctors to take their case as many doctor are deciding not to take worker's compensation cases due to the low reimbursement rates that they incur.

With an increase in the reimbursement rates, more doctor's may consider treating injured workers in order to return them back to work.

Thank you for the opportunity to address this committee in regard to HB 2152, HSCR 141-12.

Sincerely,

Patti Inoue, M.Ed., CRC
715 S. King Street, #410
Honolulu, Hawaii 96813
808-538-8733

2/14/12

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 14, 2012 11:51 AM
To: ERBtestimony
Cc: Lardizabal@local368.org
Subject: Testimony for HB2152 on 2/16/2012 10:30:00 AM

Testimony for ERB 2/16/2012 10:30:00 AM HB2152

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Al lardizabal
Organization: Hawaii Laborers' Union
E-mail: Lardizabal@local368.org
Submitted on: 2/14/2012

Comments:

The bill is necessary to encourage physicians to continue to accept WC patients and hopefully, to encourage more physicians to treat our workers.
We support the effort of the DLIR.

Mahalo