



GOV. MSG. NO. 1197

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 14, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

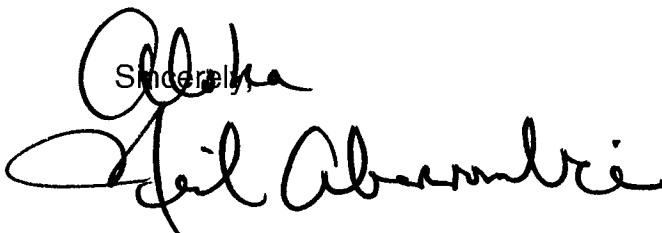
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 14, 2013, the following bill was signed into law:

HB152 HD1 SD2 CD1

RELATING TO WORKERS' COMPENSATION
MEDICAL FEE SCHEDULES
ACT 097 (13)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. **Finding and purpose.** The legislature finds
2 that a process currently exists under section 386-21(c), Hawaii
3 Revised Statutes, for the administrative adjustment of the
4 workers' compensation medical fee schedule by the director of
5 labor and industrial relations.

6 The purpose of this Act is to:

7 (1) Require the auditor to assist the director of labor
8 and industrial relations in the exercise of
9 administrative authority by:

10 (A) Identifying:

11 (i) The medical or health care services or
12 procedures for which fee adjustments are
13 necessary to ensure that injured employees
14 have better access to treatment; and

15 (ii) A methodology for conducting the
16 statistically valid surveys of prevailing
17 charges that are necessary for adjustment of
18 the fees; and



1 (B) Recommending adjusted fees to the director after
2 applying the methodology;

3 (2) Make available to the director a limited opportunity
4 to expedite the adjustment of fees identified by the
5 auditor; and

6 (3) Require the auditor to recommend to the director and
7 legislature a formalized process for the mandatory
8 periodic review of the adequacy of the medical fee
9 schedule.

10 SECTION 2. Identification of fees for services or
11 procedures that impede obtaining treatment. (a) After
12 consulting with the director of labor and industrial relations
13 and representatives of relevant entities, the auditor shall
14 identify the medical or health care services or procedures for
15 which the fees:

16 (1) Are a significant impediment to injured employees
17 obtaining treatment from providers of those services
18 or procedures; and

19 (2) Require adjustment to ensure that injured employees
20 are able to obtain adequate access to treatment from
21 those providers.



1 The auditor shall list the services or procedures by
2 priority, with higher priority being assigned to those services
3 or procedures that are most difficult for injured employees to
4 obtain treatment.

5 (b) After the required consultation with the director of
6 labor and industrial relations and representatives of relevant
7 entities, the auditor shall have the exclusive discretion to
8 identify the services or procedures pursuant to subsection (a).

9 **SECTION 3. Establishment of methodology for prevailing**
10 **charges survey.** (a) After identification of the medical or
11 health care services and procedures for which fee adjustments
12 are found to be necessary pursuant to section 2, and upon
13 further consultation with the director of labor and industrial
14 relations and representatives of relevant entities, the auditor
15 shall establish a methodology for the statistically valid survey
16 of prevailing charges necessary for the adjustment of those fees
17 in accordance with section 386-21(c), Hawaii Revised Statutes.

18 (b) After the required consultation with the director of
19 labor and industrial relations and representatives of relevant
20 entities, the auditor shall have the exclusive discretion to
21 establish the methodology under subsection (a).



1 SECTION 4. Use of methodology for recommendation of fee
2 adjustments. (a) After establishing the survey methodology,
3 the auditor shall conduct the survey of prevailing charges for
4 the services and procedures for which fee adjustments are found
5 to be necessary and shall recommend the appropriate fee
6 adjustment based upon the survey results. The recommendation
7 shall be made in accordance with the requirements of section
8 386-21(c), Hawaii Revised Statutes.

9 If the auditor does not have sufficient resources to review
10 all fees identified by the auditor as requiring adjustment, the
11 auditor shall conduct the survey for, and recommend the
12 adjustment of, the fees for procedures or services of higher
13 priority until resources are exhausted.

14 (b) The auditor shall transmit the recommendations to the
15 director of labor and industrial relations no later than June 1,
16 2014.

17 SECTION 5. Administrative adjustment of fees; expedited
18 process. (a) From June 1, 2014, the director of labor and
19 industrial relations may take action in accordance with section
20 386-21(c), Hawaii Revised Statutes, to adjust the fees for
21 medical or health services or procedures identified by the
22 auditor as requiring adjustment; provided that the director may



1 use the results of the survey by the auditor to make an
2 adjustment of a fee and, for that adjustment, shall not be
3 required to conduct the director's own survey of prevailing
4 charges. The director shall have the discretion to adjust the
5 fee to the amount recommended by the auditor or another amount
6 deemed necessary by the director.

7 If the director does not have sufficient resources to
8 adjust all fees for services or procedures identified by the
9 auditor, the director shall adjust the fees for procedures or
10 services of higher priority, as identified by the auditor, until
11 resources are exhausted.

12 (b) Until January 1, 2015, the director may adjust the
13 fees identified by the auditor as requiring adjustment without
14 necessity of complying with the rule adoption procedures under
15 chapter 91, Hawaii Revised Statutes; provided that, if the
16 director uses this authority, the director shall hold at least
17 one public hearing, with at least six days of public notice, in
18 each county before final approval of any adjustment.

19 (c) If the director does not adjust a fee for a service or
20 procedure pursuant to subsection (b) by January 1, 2015, the
21 authority under that subsection shall not be available to the
22 director after that date.



1 (d) The authority of subsection (b) shall not apply to the
2 adjustment of any fee that has not been identified by the
3 auditor pursuant to section 2 as requiring adjustment.

4 (e) Nothing in this Act shall require the director of
5 labor and industrial relations to adjust the fee for every
6 service or procedure identified by the auditor. The director
7 shall have the discretion to reject the adjustment of any fee.

8 SECTION 6. Consultation with representatives of relevant
9 entities. In order to fulfill the requirements of this Act to
10 consult with representatives of relevant entities, the auditor
11 shall have the exclusive discretion to identify the entities and
12 their representatives who shall be consulted. The auditor may
13 consult with the representatives of those entities in private or
14 at a public informational meeting.

15 No person or entity, except the director of labor and
16 industrial relations, shall have a right to be consulted by the
17 auditor or be aggrieved by the lack of consultation.

18 No person or entity shall have a cause of action to
19 invalidate the auditor's identification of services or
20 procedures for which fee adjustment is necessary, or the
21 establishment of the survey methodology; provided that the
22 director of labor of industrial relations shall have such a



1 cause of action if the auditor fails to consult with the
2 director.

3 SECTION 7. Recommendation of process for mandatory
4 periodic review of medical fee schedule. In addition to the
5 requirements under sections 2, 3, and 4, the auditor shall
6 recommend a formalized process for the mandatory periodic review
7 by the director of labor and industrial relations of the medical
8 fee schedule or certain fees in the schedule. The purpose of
9 the process shall be to ensure the periodic assessment of the
10 sufficiency of the fees for injured employees to obtain
11 treatment.

12 The auditor shall submit the recommendation for mandatory
13 periodic review of the adequacy of the medical fee schedule to
14 the legislature and director of labor and industrial relations
15 by January 1, 2014.

16 SECTION 8. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$150,000 or so much
18 thereof as may be necessary for fiscal year 2013-2014 for the
19 auditor to:

- 20 (1) Assist the director of labor and industrial relations
21 in adjusting the workers' compensation medical fee



1 schedule for services or procedures for which the fees
2 are identified as requiring adjustment;

3 (2) Make available to the director of labor and industrial
4 relations a limited opportunity to expedite the
5 adjustment of fees identified by the auditor; and

6 (3) Recommend a formalized process for the mandatory
7 periodic review of the adequacy of the medical fee
8 schedule.

9 The sum appropriated shall be expended by the auditor for
10 the purposes of this Act.

11 SECTION 9. This Act shall take effect on July 1, 2013.

APPROVED this 14 day of JUN, 2013



GOVERNOR OF THE STATE OF HAWAII

