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# 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.





**Report Title:**

Workers' Compensation; Medical Fee Schedules

**Description:**

Requires the auditor to assist DLIR in adjusting and periodically reviewing the adequacy of the medical fee schedule. Makes an appropriation. Effective 7/1/13. (CD1)

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

