

JAN 18 2013

S.B. NO. 876

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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,
18 accommodation, product, or service existing as of June 29, 1995,



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

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

- 13 (1) Future charges or additions prescribed in the Medicare
14 Resource Based Relative Value Scale applicable to
15 Hawaii as prepared by the United States Department of
16 Health and Human Services; or
- 17 (2) A statistically valid survey by the director of
18 prevalent charges for fees for services actually
19 received by providers of health care services or based
20 upon the information provided to the director by the
21 appropriate state agency having access to prevalent
22 charges for medical fee information.



1 ~~[When a dispute exists between an insurer or self-insured~~
2 ~~employer and a medical services provider regarding the amount of~~
3 ~~a fee for medical services, the director may resolve the dispute~~
4 ~~in a summary manner as the director may prescribe; provided that~~
5 ~~a provider shall not charge more than the provider's private~~
6 ~~patient charge for the service rendered.] In the event a~~
7 ~~reasonable disagreement relating to specific charges cannot be~~
8 ~~resolved, the employer or provider of service may request~~
9 ~~intervention from the director by notifying the director and the~~
10 ~~other party by certified mail of the billing dispute. The front~~
11 ~~page of the billing dispute and the envelope in which the~~
12 ~~dispute is mailed shall be clearly identified as a "BILLING~~
13 ~~DISPUTE" in capital letters and in no less than ten point type.~~
14 ~~The parties shall negotiate within thirty-one calendar days~~
15 ~~following the date of the notice sent to the director and other~~
16 ~~party. If the parties fail to reach an agreement during the~~
17 ~~thirty-one calendar days, the parties shall file their position~~
18 ~~statements by certified mail within fourteen calendar days~~
19 ~~immediately following the thirty-first day of the negotiation~~
20 ~~period. The position statements shall include substantiating~~
21 ~~documentation that specifies the amount in dispute, any~~
22 ~~applicable supporting documents, and a description of actions~~



1 taken to resolve the dispute. The director shall review the
2 position statements submitted by both parties and render an
3 administrative decision without a hearing. A service fee of up
4 to \$500 payable to the State of Hawaii general fund shall be
5 assessed at the discretion of the director against either or
6 both parties who fail to negotiate in good faith. The
7 administrative decision rendered by the director shall be final
8 and shall not be subject to appeal.

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 director shall make a decision within
17 thirty days of the filing of a dispute. If the director
18 determines that medical services pursuant to the treatment plan
19 should be or should have been discontinued, the director shall
20 designate the date after which medical services for that
21 treatment plan are denied. The employer or the employer's
22 insurer may recover from the employee's personal health care



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

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

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

13

INTRODUCED BY:

Chenille



S.B. NO. 876

Report Title:

Workers' Compensation; Medical Service Fees; Disputes

Description:

Authorizes the employer and provider of services to notify the director of labor and industrial relations in the event of a reasonable disagreement relating to specific medical service charges. Requires that the notice of dispute is done in writing and that the parties negotiate during the thirty-one calendar days following the date of the notice to the director. Allows parties to request the director to render an administrative decision without a hearing in the event the parties fail to reach an agreement within the thirty-one day negotiation period. Establishes that the administrative decision rendered by the director is final and nonappealable.

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

