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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2013

Thursday, April 4, 2013  
9 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON HOUSE BILL NO. 152, H.D. 1, S.D. 1 and Proposed S.D. 2 –  
RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES.**

TO THE HONORABLE DAVID IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department").

The Department defers to Department of Labor & Industrial Relations ("DLIR") on the merits of this bill and submits the following comments.

The purpose of the S.D. 1 is to amend Hawaii Revised Statutes ("HRS") § 386-21(c) by increasing the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii ("Medicare fee schedule") effective January 1, 2014. The intent of the S.D. 1 is to improve access and availability of medical providers to treat workers' compensation claimants.

Under current law, the medical fee schedule for motor vehicle insurance cases is tied to the workers' compensation supplemental fee schedule, per HRS § 431:10C-

308.5. This was intended to reduce motor vehicle insurance premiums and to provide administrative efficiency.

The definition of “medical fee schedule” in HRS § 431:10C-103 refers to the Medicare Resources Based Relative Value Scale System applicable to Hawaii, entitled “Workers’ Compensation Supplemental Medical Fee Schedule”.

HRS § 431:10C-308.5(a) defines the term “workers’ compensation supplemental medical fee schedule” as “the schedule adopted and as may be amended by the director of labor and industrial relations for workers’ compensation cases under chapter 386, establishing fees and frequency of treatment guidelines.”

As currently drafted, the S.D. 1 will also likely result in an increase in workers compensation insurance premiums and may impact motor vehicle insurance rates.

The Proposed S.D. 2 requires the Auditor to study the workers’ compensation system fee schedule, with a report and proposed legislation due to the Legislature for the 2014 regular session. The Department takes no position on the Proposed S.D. 2.

We thank this Committee for the opportunity to present testimony on this matter.



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

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**Senate Committee on Ways and Means**  
Conference Room 211 State Capitol  
Wednesday, April 4, 2013, 9:00 a.m.  
**HB 152, HD1, SD2 – Relating to the Medical Fee Schedule**

Chair Ige, Vice-Chair Kidani and Members of the W&AM Committee:

My name is Timothy Dayton, General Manager for GEICO. GEICO provides motor vehicle insurance for 30% of the households in Hawaii that insure an automobile. **GEICO opposes HB 152 SD1 and supports HB 152 SD2 with an amendment which clarifies the intent of the Legislature to study the impact on motor vehicle Personal Injury Protection Coverage (PIP) or in the alternative leave the PIP Fee Schedule at the current 110% of Medicare.**

Thank you for the opportunity to submit this testimony.

Timothy M. Dayton, CPCU

## **TESTIMONY OF ALISON POWERS**

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### **SENATE COMMITTEE ON WAYS AND MEANS**

Senator David Y. Ige, Chair

Senator Michelle N. Kidani, Vice Chair

April 4, 2013

9:00 a.m

### **HB 152 HD1 SD1 Proposed SD2**

Chair Ige, Vice Chair Kidani, and members of the Committee, my name is Alison Powers, Executive Director of the 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.

HIC **supports** the proposed SD2 to HB 152 with amendments. The proposed bill mandates the auditor to study certain components of the medical expenses in workers' compensation claims and we believe this is a prudent approach. Our amendments include the following major provisions:

1. Clarifying that the study by the auditor shall include data from a statistically valid sampling of certain named parties;
2. Including in the reimbursement rate comparison, all other systems such as group health insurance and clarifying the federal workers' compensation fee schedule is referred to as OWCP/FECA; and
3. Technical amendments.

We respectfully attach an amendment to HB 152, proposed SD2 with these changes.

Thank you for the opportunity to testify.

HOUSE OF REPRESENTATIVES  
TWENTY-SEVENTH LEGISLATURE,  
2013  
STATE OF HAWAII

H.B. NO.

152  
H.D. 1  
S.D. 2  
Proposed

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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:

SECTION 1. The auditor shall conduct a study that comprises, but is not limited to, data from a statistically valid sampling of treating physicians, independent medical examination physicians, the National Council on Compensation Insurance, insurers, self insureds, and injured workers, relating to the workers' compensation [~~system~~] medical fee schedule in the State that includes:

(1) An evaluation of whether the current rates are sufficient to provide workers' compensation patients with access to physicians in the State who are willing to treat them, including:

(A) A comparison of the average rates on Oahu and the neighbor islands;

(B) The number of physicians who treat workers' compensation patients on Oahu and the neighbor islands; [~~and~~]

(C) Additional costs, if any, that physicians who treat workers' compensation patients incur in terms of filing claims, record keeping, reporting, and compliance requirements; and

(D) A comparison of these additional costs to non workers' compensation patient costs such as Medicare and group health reporting.

(2) The fiscal impacts of increasing the fee schedule from one hundred ten per cent to one hundred thirty per cent of the medicare resource based relative value scale applicable to Hawaii, including:

(A) The effect of the fee increase on access to medical services;

- (B) The effect of the fee increase on services and providers on Oahu; and
  - (C) The effect of the fee increase on services and providers on the neighbor islands;
- (3) A comparison of [~~state-federal rate schedules~~] all medical provider reimbursement rates in Hawaii, including:
- (A) Data collection on current prevalent charges used by [~~various divisions~~] health insurers;
  - (B) A ranked listing of the CPT codes billed in workers' compensation cases; and
  - (C) A comparison of CPT codes and fees in the State's fee schedules including Exhibit A and the [~~federal fee~~] OWCP/FECA schedule used for the State, including:
    - (i) The percentage of CPT codes that overlap between the state and federal schedules;
    - (ii) A comparison of the [~~reimbursement rates~~] fees for CPT codes shared in both schedules;
    - (iii) A comparison of the [~~reimbursement rates~~] fees for CPT codes not shared;
    - (iv) A percentage of the CPT codes in the [~~federal~~] OWCP/FECA schedule and on what basis they are being charged; and
    - (v) An inquiry into claims that CPT codes not appearing in the United States Office of Workers' Compensation Programs' fee schedule are paid as billed and the basis on which these CPT codes are being charged;
- (4) A statistical assessment of independent medical examinations conducted in the State and the fees for those examinations, including the:
- (A) Prevalence of independent medical examinations, including how often they are requested;
  - (B) Number of independent medical examinations that are found in favor of the employer, by number and percentage;
  - (C) Number of independent medical examinations that are found in favor of the employee, by number and percentage;
  - (D) Trends or differences between Oahu and the neighbor islands;

(E) Number of physicians who currently perform independent medical examinations on Oahu and the neighbor islands;

(F) Average wait time to have an independent medical examination scheduled and completed on Oahu and the neighbor islands; and

(G) Appropriateness of fees paid under applicable fee schedules;

(5) A determination of patterns of abuse, if any, among the following:

(A) Insurers: Relating to denying claims; restricting treatment options; and funneling workers to particular physicians and care providers;

(B) Employers: Relating to providing insufficient or no coverage; failing to provide workers with workers' compensation information and rights; and denial of claims;

(C) Injured workers: Relating to submitting false claims and preexisting conditions; and

(D) Physicians: Relating to findings by physicians that appear to be more often favorable to the employer or employee; appropriateness of treatment provided; ~~and~~ possible over-reliance on prescribing narcotics; and inclusion of diagnosis not related to the reported injury; and

(6) A determination of whether and how often the director of labor and industrial relations has established an additional fee schedule not exceeding the prevalent charge for fees for services actually received by providers of health care services to cover charges for a specific treatment, accommodation, product, or service not listed in the Medicare RBRVS fee schedule pursuant to the director's authority under section 386-21, Hawaii Revised Statutes.

SECTION 2. The auditor shall submit a report of the findings and recommendations, including any proposed legislation, to the legislature not later than twenty days prior to the convening of the regular session of 2014.

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

**Report Title:**

Workers' Compensation; Medical Fee Schedules

**Description:**

Requires the auditor to conduct a study on various aspects of the workers' compensation medical fee schedules and system in the State, including the sufficiency of current rates to provide access to the State's physicians that are willing to serve workers' compensation patients and fiscal impacts of increasing fee schedules. (SD2 PROPOSED)

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