
A BILL FOR AN ACT

RELATING TO INSURANCE CLAIMS.

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

1 SECTION 1. The legislature finds that Hawaii's existing
2 reimbursement rates for pharmaceuticals in workers' compensation
3 and motor vehicle claims are among the highest in the nation for
4 both brand name and generic products. The legislature further
5 finds that regulating the pricing of prescription medications
6 will help control the cost of prescription and compounded
7 prescription drugs in the State's workers' compensation and
8 motor vehicle insurance systems.

9 The legislature additionally finds that motor vehicle
10 personal injury protection charges follow the workers'
11 compensation medical fee schedule. Motor vehicle insurance
12 benefits should automatically adopt the drug pricing protections
13 afforded by this Act unless otherwise modified by the insurance
14 commissioner through rulemaking authority subsequent to the
15 enactment of this Act.

16 Accordingly, the purpose of this Act is to limit
17 reimbursement of prescription medications in order to prevent
18 drug prices from becoming an unreasonable cost driver of health



1 care in workers' compensation and motor vehicle insurance
2 claims, while ensuring the same standard of service and care
3 intended for both injured employees under the workers'
4 compensation law and injured individuals under the motor vehicle
5 insurance law.

6 SECTION 2. Chapter 386, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§386- Prescription drugs; pharmaceuticals. (a)

10 Notwithstanding any other provision to the contrary, immediately
11 after a work injury is sustained by an employee and so long as
12 reasonably needed, the employer shall furnish to the employee
13 all prescription drugs as the nature of the injury requires.
14 The liability for the prescription drugs shall be subject to the
15 deductible under section 386-100.

16 (b) Payment for all forms of prescription drugs including
17 repackaged and relabeled drugs shall not exceed one hundred
18 forty per cent of the average wholesale price set by the
19 original manufacturer of the dispensed prescription drug as
20 identified by its National Drug Code and as published in the Red
21 Book: Pharmacy's Fundamental Reference as of the date of
22 dispensing; provided that payment for a prescription drug that



1 is not available at a major retail pharmacy within the State
2 shall not be reimbursed.

3 (c) Payment for compounded prescription drugs shall not
4 exceed one hundred forty per cent of the average wholesale price
5 by gram weight of each underlying prescription drug contained in
6 the compounded prescription drug. For compounded prescription
7 drugs, the average wholesale price shall be that set by the
8 original manufacturer of the underlying prescription drug as
9 identified by its National Drug Code and as published in the Red
10 Book: Pharmacy's Fundamental Reference as of the date of
11 compounding.

12 (d) All pharmaceutical claims submitted for repackaged,
13 re-labeled, or compounded prescription drugs shall include the
14 National Drug Code of the original manufacturer. If the
15 original manufacturer of the underlying drug product used in
16 repackaged, re-labeled, or compounded prescription drugs is not
17 provided or is unknown, then reimbursement shall not exceed one
18 hundred forty per cent of the average wholesale price for the
19 original manufacturer's National Drug Code number as listed in
20 the Red Book: Pharmacy's Fundamental Reference of the
21 prescription drug that is most closely related to the underlying
22 drug product.



1 (e) Notwithstanding any other provision in this section to
2 the contrary, equivalent generic drug products shall be
3 substituted for brand name pharmaceuticals unless the
4 prescribing physician certifies that no substitution shall be
5 prescribed because the injured employee's condition does not
6 tolerate an equivalent generic drug product.

7 (f) For purposes of this section, "equivalent generic drug
8 product" has the same meaning as provided in section 328-91."

9 SECTION 3. Section 431:10C-308.5, Hawaii Revised Statutes,
10 is amended by amending subsection (b) to read as follows:

11 "(b) The charges and frequency of treatment for services
12 specified in section 431:10C-103.5(a), except for emergency
13 services provided within seventy-two hours following a motor
14 vehicle accident resulting in injury, shall not exceed the
15 charges and frequency of treatment permissible under the
16 workers' compensation supplemental medical fee schedule.
17 Charges for independent medical examinations, including record
18 reviews, physical examinations, history taking, and reports, to
19 be conducted by a licensed Hawaii provider unless the insured
20 consents to an out-of-state provider, shall not exceed the
21 charges permissible under the appropriate codes in the workers'
22 compensation supplemental medical fee schedule. The workers'



1 compensation supplemental medical fee schedule shall not apply
2 to independent medical examinations conducted by out-of-state
3 providers if the charges for the examination are reasonable.
4 The independent medical examiner shall be selected by mutual
5 agreement between the insurer and claimant; provided that if no
6 agreement is reached, the selection may be submitted to the
7 commissioner, arbitration or circuit court. The independent
8 medical examiner shall be of the same specialty as the provider
9 whose treatment is being reviewed, unless otherwise agreed by
10 the insurer and claimant. All records and charges relating to
11 an independent medical examination shall be made available to
12 the claimant upon request. The commissioner may adopt
13 administrative rules relating to fees or frequency of treatment
14 for injuries covered by personal injury protection benefits. If
15 adopted, these administrative rules shall prevail to the extent
16 that they are inconsistent with the workers' compensation
17 supplemental medical fee schedule[-]; provided that the fees set
18 forth in the administrative rules adopted by the commissioner
19 shall not exceed the charges permissible under sections 386-21
20 and 386-_____."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Insurance Claims; Prescription Drugs; Reimbursement Rates;
Workers' Compensation; Motor Vehicle Insurance Benefits

Description:

Limits the reimbursement payments of prescription medications, including relabeled, repackaged, or compounded prescription medications, in workers' compensation claims. Requires motor vehicle insurance benefits to automatically adopt the prescription drug pricing protections associated with the workers' compensation supplemental medical fee schedule, unless otherwise modified by the Insurance Commissioner through rulemaking. Effective July 1, 2050. (SB2365 HD1)

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