
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 drugs and compound
7 medications in the State's workers' compensation and motor
8 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 claims while
2 ensuring the same standard of service and care intended by
3 workers' compensation laws to injured employees and individuals
4 under motor vehicle insurance.

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

8 **"§386- Prescription drugs; pharmaceuticals. (a)**
9 Notwithstanding any other provision to the contrary, immediately
10 after a work injury is sustained by an employee and so long as
11 reasonably needed, the employer shall furnish to the employee
12 all prescription drugs as the nature of the injury requires.
13 The liability for the prescription drugs shall be subject to the
14 deductible under section 386-100.

15 (b) Payment for all forms of prescription drugs including
16 repackaged and relabeled drugs shall be per cent of the
17 average wholesale price set by the original manufacturer of the
18 dispensed prescription drug as identified by its National Drug
19 Code and as published in the Medi-Span Master Drug Database as
20 of the date of purchase by the provider of service, except where
21 the employer or carrier, or any entity acting on behalf of the
22 employer or carrier, directly contracts with the provider or the

1 provider's assignee for a lower amount; provided that payment
2 for a prescription drug that is not available at a retail
3 pharmacy within the State shall not be reimbursed.

4 (c) Payment for compounded medications shall be the sum of
5 per cent of the average wholesale price by gram weight of
6 each underlying prescription drug contained in the compounded
7 medication. For compounded medications, the average wholesale
8 price shall be that set by the original manufacturer of the
9 underlying prescription drug as identified by its National Drug
10 Code and as published in the Medi-Span Master Drug Database as
11 of the date of compounding, except where the employer or
12 carrier, or any entity acting on behalf of the employer or
13 carrier, directly contracts with the provider or provider's
14 assignee for a lower amount.

15 (d) All pharmaceutical claims submitted for repackaged or
16 re-labeled prescription medications shall include the National
17 Drug Code of the original manufacturer. If the original
18 manufacturer of the underlying drug product used in repackaged
19 or re-labeled drugs or compounded medications is not provided or
20 is unknown, then reimbursement shall not exceed per cent
21 of the average wholesale price for the original manufacturer's
22 National Drug Code number as listed in the Medi-Span Master Drug



1 Database of the prescription drug that is most closely related
2 to the underlying drug product.

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

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

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

13 "(b) The charges and frequency of treatment for services
14 specified in section 431:10C-103.5(a), except for emergency
15 services provided within seventy-two hours following a motor
16 vehicle accident resulting in injury, shall not exceed the
17 charges and frequency of treatment permissible under the
18 workers' compensation supplemental medical fee schedule.

19 Charges for independent medical examinations, including record
20 reviews, physical examinations, history taking, and reports, to
21 be conducted by a licensed Hawaii provider unless the insured
22 consents to an out-of-state provider, shall not exceed the



1 charges permissible under the appropriate codes in the workers'
2 compensation supplemental medical fee schedule. The workers'
3 compensation supplemental medical fee schedule shall not apply
4 to independent medical examinations conducted by out-of-state
5 providers if the charges for the examination are reasonable.
6 The independent medical examiner shall be selected by mutual
7 agreement between the insurer and claimant; provided that if no
8 agreement is reached, the selection may be submitted to the
9 commissioner, arbitration or circuit court. The independent
10 medical examiner shall be of the same specialty as the provider
11 whose treatment is being reviewed, unless otherwise agreed by
12 the insurer and claimant. All records and charges relating to
13 an independent medical examination shall be made available to
14 the claimant upon request. The commissioner may adopt
15 administrative rules relating to fees or frequency of treatment
16 for injuries covered by personal injury protection benefits. If
17 adopted, these administrative rules shall prevail to the extent
18 that they are inconsistent with the workers' compensation
19 supplemental medical fee schedule[-]; provided that the fees set
20 forth in the administrative rules adopted by the commissioner
21 shall not exceed the charges permissible under sections 386-21
22 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 07/01/2050. (SD2)

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