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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE.

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

1           SECTION 1. The purpose of this Act is to carry out the  
2 recommendations of auditor's report no. 13-10, *A Report on*  
3 *Methodology for the Department of Labor and Industrial*  
4 *Relations' Workers' Compensation Medical Fee Schedule*. The  
5 report was produced pursuant to Act 97, Session Laws of Hawaii  
6 2013, which required the state auditor to assist the director of  
7 labor and industrial relations in administratively adjusting the  
8 workers' compensation medical fee schedule.

9           SECTION 2. Section 386-21, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11           "(c) The liability of the employer for medical care,  
12 services, and supplies shall be limited to the charges computed  
13 as set forth in this section. The director shall make  
14 determinations of the charges and adopt fee schedules based upon  
15 those determinations. Effective January 1, 1997, and for each  
16 succeeding calendar year thereafter, the charges shall not  
17 exceed one hundred ten per cent of fees prescribed in the  
18 Medicare Resource Based Relative Value Scale applicable to



1 Hawaii as prepared by the United States Department of Health and  
2 Human Services, except as provided in this subsection. The  
3 rates or fees provided for in this section shall be adequate to  
4 ensure at all times the standard of services and care intended  
5 by this chapter to injured employees.

6 If the director determines that an allowance under the  
7 medicare program is not reasonable or if a medical treatment,  
8 accommodation, product, or service existing as of June 29, 1995,  
9 is not covered under the medicare program, the director, at any  
10 time, may establish an additional fee schedule or schedules not  
11 exceeding the prevalent charge for fees for services actually  
12 received by providers of health care services, to cover charges  
13 for that treatment, accommodation, product, or service. If no  
14 prevalent charge for a fee for service has been established for  
15 a given service or procedure, the director shall adopt a  
16 reasonable rate which shall be the same for all providers of  
17 health care services to be paid for that service or  
18 procedure[-]; provided that the director may establish a maximum  
19 allowable fee ceiling that is higher than one hundred ten per  
20 cent of fees prescribed in the Medicare Resource Based Relative  
21 Value Scale applicable to Hawaii for evaluation and management



1 medical services as defined by the American Medical  
2 Association's Current Procedural Terminology codes.

3 The director shall update the schedules required by this  
4 section [~~every three years or annually, as required.~~] annually.

5 The updates shall be based upon:

6 (1) Future charges or additions prescribed in the Medicare  
7 Resource Based Relative Value Scale applicable to  
8 Hawaii as prepared by the United States Department of  
9 Health and Human Services; or

10 (2) A statistically valid survey by the director of  
11 prevalent charges for fees for services actually  
12 received by providers of health care services or based  
13 upon the information provided to the director by the  
14 appropriate state agency having access to prevalent  
15 charges for medical fee information.

16 When a dispute exists between an insurer or self-insured  
17 employer and a medical services provider regarding the amount of  
18 a fee for medical services, the director may resolve the dispute  
19 in a summary manner as the director may prescribe; provided that  
20 a provider shall not charge more than the provider's private  
21 patient charge for the service rendered.



1           When a dispute exists between an employee and the employer  
2 or the employer's insurer regarding the proposed treatment plan  
3 or whether medical services should be continued, the employee  
4 shall continue to receive essential medical services prescribed  
5 by the treating physician necessary to prevent deterioration of  
6 the employee's condition or further injury until the director  
7 issues a decision on whether the employee's medical treatment  
8 should be continued. The director shall make a decision within  
9 thirty days of the filing of a dispute. If the director  
10 determines that medical services pursuant to the treatment plan  
11 should be or should have been discontinued, the director shall  
12 designate the date after which medical services for that  
13 treatment plan are denied. The employer or the employer's  
14 insurer may recover from the employee's personal health care  
15 provider qualified pursuant to section 386-27, or from any other  
16 appropriate occupational or non-occupational insurer, all the  
17 sums paid for medical services rendered after the date  
18 designated by the director. Under no circumstances shall the  
19 employee be charged for the disallowed services, unless the  
20 services were obtained in violation of section 386-98. The  
21 attending physician, employee, employer, or insurance carrier



1 may request in writing that the director review the denial of  
2 the treatment plan or the continuation of medical services."

3 SECTION 3. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2014-2015 for  
6 the establishment of two full-time equivalent (2.00 FTE)  
7 positions, one research statistician III position in the  
8 research and statistics office of the department of labor and  
9 industrial relations whose duties include the implementation of  
10 an annual review process, and one office assistant IV position  
11 in the disability compensation division of the department of  
12 labor and industrial relations whose duties include supporting  
13 the annual fee schedule rule-making process. The department may  
14 employ these personnel without regard to chapter 76, Hawaii  
15 Revised Statutes.

16 The sum appropriated shall be expended by the department of  
17 labor and industrial relations for the purposes of this Act.

18 SECTION 4. No later than the commencement of the regular  
19 session before the repeal date of this Act, the director of  
20 labor and industrial relations shall report an analysis of this  
21 Act's impact on workers' compensation claimants' access to  
22 appropriate treatment.



1           There is appropriated out of the general revenues of the  
2 State of Hawaii the sum of \$                           or so much thereof as may  
3 be necessary for fiscal year 2014-2015 to contract for the  
4 performance of the analysis and production of the report.

5           The sum appropriated shall be expended by the department of  
6 labor and industrial relations for the purposes of this Act.

7           SECTION 5. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9           SECTION 6. This Act shall take effect on July 1, 2050, and  
10 be repealed on June 30, 2019; provided that section 386-21,  
11 Hawaii Revised Statutes, shall be reenacted on July 1, 2019, in  
12 the form in which it existed on June 30, 2014.

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**Report Title:**

Workers' Compensation Medical Fee Schedule; Appropriation

**Description:**

Requires the department of labor and industrial relations to update the workers' compensation medical fee schedule annually. Authorizes department of labor and industrial relations to establish a workers' compensation medical fee ceiling that exceeds one hundred ten per cent of the fees prescribed in the Medicare Resource Relative Value Scale for Hawaii. Effective 07/01/50. Sunsets 06/30/19. (SD1)

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

