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# 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 \$250 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  
8 appealable to the appellate board for ninety days after the  
9 decision is issued and thereafter to the intermediate appellate  
10 court, subject to chapter 602.

11       When a dispute exists between an employee and the employer  
12 or the employer's insurer regarding the proposed treatment plan  
13 or whether medical services should be continued, the employee  
14 shall continue to receive essential medical services prescribed  
15 by the treating physician necessary to prevent deterioration of  
16 the employee's condition or further injury until the director  
17 issues a decision on whether the employee's medical treatment  
18 should be continued. The director shall make a decision within  
19 thirty days of the filing of a dispute. If the director  
20 determines that medical services pursuant to the treatment plan  
21 should be or should have been discontinued, the director shall  
22 designate the date after which medical services for that



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

12 SECTION 2. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

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

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**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. Allows the director to assess a \$250 fee to either or both parties who fail to negotiate in good faith. Mandates that the administrative decision rendered by the director shall be appealable to the appellate board for ninety days after the administrative decision is issued and thereafter to the intermediate appellate court, subject to chapter 602, HRS. Effective July 1, 2050. (SD1)

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

