



STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 24, 2014

**TESTIMONY TO THE
SENATE COMMITTEE ON WAYS AND MEANS**

For Hearing on Tuesday, February 25, 2014
9:15 a.m., Conference Room 211

BY

BARBARA A. KRIEG
DIRECTOR

Senate Bill No. 2923, S.D. 1
Relating to Workers' Compensation Medical Fee Schedule

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON DAVID IGE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on S.B. 2923, S.D. 1.

The purpose of S.B. 2923, S.D. 1, is to require the department of labor and industrial relations (DLIR) to update the workers' compensation medical fee schedule annually; and authorize the DLIR 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.

The Department of Human Resources Development (DHRD) submits the following comments on this bill.

First, to be consistent with the recommendations of the State Auditor's Report No. 13-10, we recommend that Section 4. also require the Director of Labor's analysis and report to include the cost impact of this proposal.

Second, to the extent any annual changes to the medical fee schedule would increase our costs for the State's self-insured workers' compensation program, DHRD

would have to request additional appropriations from the Legislature. Workers' compensation is a mandatory benefit for injured employees under Chapter 386, Hawaii Revised Statutes.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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HONOLULU, HAWAII 96813
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Phone: (808) 586-8842 / Fax: (808) 586-9099
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February 24, 2014

To: The Honorable David Y. Ige, Chair,
The Honorable Michelle N. Kidani, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Tuesday, February 25, 2014
Time: 9:15 a.m.
Place: Conference Room 211, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 2923 S.D. 1 Relating to Workers'
Compensation Medical Fee Schedule**

I. OVERVIEW OF PROPOSED LEGISLATION

SB2923 SD1 proposes to amend Section 386-21(c), Hawaii Revised Statutes (HRS), to carry out the recommendations of the auditor's report no. 13-10, ***A Report on Methodology for the Department of Labor and Industrial Relations' Workers' Compensation Medical Fee Schedule***, pursuant to Act 97, Session Laws of Hawaii 2013. Act 97 required the state auditor to assist the director of labor and industrial relations in administratively adjusting the workers' compensation medical fee schedule and identifying a methodology for conducting surveys.

The DLIR appreciates the assistance provided by the State Auditor and strongly supports the Auditor's recommendations provided that sufficient funding is appropriated to support the annual fee schedule rule-making process.

S.B. 2923 S.D. 1 proposes the following:

1. Require the director to update the medical fee schedule annually instead of every three years;

2. Allow the annual establishment of a maximum allowable fee ceiling higher than one hundred ten percent of Medicare for evaluation and management codes;
3. Appropriate funding for 2 full-time positions to include one research statistician III and one office assistant IV position to support the annual fee schedule rule-making process;
4. Conduct a trend analysis of this Act's impact on workers' compensation claimants' access to appropriate treatment and appropriate funding to conduct the trend analysis; and
5. A report to the Legislature analyzing the Act's impact on workers' compensation claimants' access to appropriate treatment no later than the commencement of the regular session before the repeal day of the proposal.
6. Repeal this measure on June 30, 2019 and reenact section 386-21(c), HRS, to the form in which it existed on June 30, 2014.

II. CURRENT LAW

Currently, Section 386-21(c), HRS, specifies that the liability of the employer for medical care, services, and supplies shall be limited to charges up to 110 percent of the federal Medicare fee schedule applicable to Hawaii. The director may also establish an additional fee schedule if charges under Medicare are considered unreasonable or if a medical treatment, service, accommodation, or product is not covered by Medicare.

This additional fee schedule is referred to as the Workers' Compensation Supplemental Medical Fee Schedule, or Exhibit A. The law also requires the director to update the fee schedules at least once every three years. The primary guideline for establishing prevalent charges is a schedule of all maximum allowable medical fees provided to the director by prepaid health care plan contractors.

III. COMMENTS ON THE SENATE BILL

The Department supports this measure to follow the auditor's recommendations for an annual review of the workers' compensation medical fee schedule, to refine the methodology of developing the medical fee schedule, and to establish a second maximum allowable fee ceiling for Evaluation and Management (E/M) medical services to improve access to medical treatment in workers' compensation cases.

The State Auditor reported that there was initial, positive feedback among affected stakeholders that these E/M codes should be reimbursed at a higher rate and treated differently from other codes because they are the codes that represent the entry point for medical treatment in workers' compensation cases. Increasing the allowable charges for these entry point codes has the potential to both draw more physicians to accept injured workers and to retain physicians currently treating injured workers.

The State Auditor also noted that the reimbursement costs for Medicare have gone down while costs have risen for health care providers, "This growing differential supports our proposal to narrow the gap by providing an incentive to doctors to treat workers' compensation cases by establishing a higher maximum allowable fee ceiling for qualified E/M codes." Greater reimbursement for the E/M codes will improve the access to medical treatment for injured workers.

Access to medical treatment for injured workers is critical, especially on the Neighbor Islands where there are fewer doctors and few doctors willing to do workers' compensation cases. This can provide barriers to the purpose of the workers' compensation law, to return workers back to work as soon as possible, especially where geographic distances can be greater. The result of delays and barriers to access to medical care include higher costs to employers for workers' compensation.

DLIR notes that the purpose of the appropriation in Section 4 is to carry out the State Auditor's recommendation [pg. 28 (c)] for the legislature, "Providing sufficient resources to the department to hire one or more contractors to perform an on-going trend analysis of the impact the methodology may have on access." The Department does not have the expertise or resources in house to perform this function, and if enacted and appropriated, intends to contract out this portion of the recommendations as suggested. The Department recommends the sum of \$150,000.00 be appropriated to conduct the trend analysis.

The Department recommends the appropriation of \$72,600.00 or so for the establishment of two full-time positions as noted in Section 3 for one Research Statistician III position and one Office Assistant IV position to support the annual fee schedule rule-making process. The DLIR notes that the SD1 provides these personnel without regard to chapter 76, HRS, and is unsure why this provision was inserted.

The Department supports this measure provided that sufficient funding is appropriated for the two additional positions to assist in the annual review process and for the trend analysis and its passage does not adversely affect the funding priorities as identified in the executive supplemental budget.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
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LATE

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

February 25, 2014

The Honorable David Y. Ige, Chair
and Members of the Committee
on Ways and Means
The Senate
State Capitol, Room 211
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ige and Members of the Committee:

**SUBJECT: Senate Bill No. 2923, SD1, Relating to Workers' Compensation
Medical Fee Schedule**

The purpose of S.B. 2923, SD1, is to carry out recommendations of the State Auditor's Report No. 13-10 by (1) requiring that the Department of Labor and Industrial Relations' (DLIR) Director update the medical fee schedule on an annual basis and (2) authorizing DLIR to establish a maximum allowable fee ceiling for certain services that is higher than 110% of the fees prescribed in the Medicare Resource Based Relative Value Scale applicable to Hawaii for evaluation and management (E/M) medical services as defined by the American Medical Association's Current Procedural Terminology codes. The City and County of Honolulu offers the following comments with respect to the measure.

Although the City appreciates the intent of S.B. 2923, SD1, the Committee should be aware that Hawaii Revised Statutes (HRS) Section 386-21(c) already provides the DLIR Director with the authority to update the medical fee schedule annually if he or she deems it necessary. As a result, the amendment to the third paragraph of the statute is unnecessary.

The same holds true with respect to the portion of S.B. 2923, SD1, which seeks to provide the DLIR Director with the ability to establish a higher medical fee ceiling. HRS Section 386-21(c) specifically states that "[t]he rates or fees provided in this section shall be adequate to ensure at all times the standard of services and care

The Honorable David Y. Ige, Chair
and Members of the Committee
on Ways and Means
February 25, 2014
Page 2

intended by this chapter to injured employees.” The section goes on to provide that “[i]f the director determines that an allowance under the medicare program **is not reasonable . . . the director, at any time, may establish an additional fee schedule or schedules** not exceeding the prevalent charge for fees for services actually received by providers of health care services, to cover charges for that treatment, accommodation, product, or service.”

While the current version of S.B. 2923 places the proposed amendment in a more appropriate part of HRS Section 386-21(c), the additional language S.B. 2923, SD1, seeks to include in the section is still not necessary. The Office of the State Auditor has recommended a methodology which consists of an annual review of all transacted medical codes regarding workers' compensation cases over a three year period. The recommended methodology also calls for creating a separate maximum allowable fee ceiling for E/M codes which would, in turn, create an incentive for health care providers to treat workers' compensation patients. However, nothing in HRS Section 386-21(c) prevents said methodology from being implemented at this time. To the contrary, the current statutory language already specifically authorizes an annual review and the establishment of additional fee schedules as warranted.

As a result, the lone roadblock to effectuating the State Auditor's recommendations and preferred methodology appears to be a lack of adequate resources in DLIR. The City accordingly supports Section 3 of the bill which appropriates funding for two full time positions in the department to assist with the implementation of medical code review and rulemaking processes.

Thank you for allowing us the opportunity to testify on this measure.

Sincerely,



Carolee C. Kubo
Director



WIMAH

WORK INJURY MEDICAL ASSOCIATION OF HAWAII
91-2135 FORT WEAVER ROAD SUITE #170
EWA BEACH, HAWAII 96706

MAULI OLA
THE POWER OF HEALING

FEBRUARY 25, 2014

SENATE BILL 2923 SD1
RELATING TO WORKERS' COMPENSATION MEDICAL FEE
SCHEDULE

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)

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS SENATE BILL 2923 SD1.

WE BELIEVE THIS BILL WILL PROVIDE AN ACCURATE MEDICAL FEE SCHEDULE WHICH WILL ADDRESS FAIR INCREASES TO THE WORKERS' COMPENSATION MEDICAL FEE SCHEDULE.

YOUR PASSAGE OF THIS BILL IS GREATLY APPRECIATED.

GEORGE M. WAIALEALE
EXECUTIVE DIRECTOR
WORK INJURY MEDICAL ASSOCIATION OF HAWAII

TESTIMONY OF JANICE FUKUDA

SENATE COMMITTEE ON WAYS AND MEANS

Senator David Ige, Chair

Senator Michelle Kidani, Vice Chair

Tuesday, February 25, 2014

9:15 a.m.

SB 2923, SD1

Chair Ige, Vice Chair Kidani, and members of the Committee, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying on behalf of 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 one third of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this measure for a number of reasons. One is that it affects motor vehicle insurance costs as well as workers' compensation insurance costs. Second is an ongoing concern whether the Department has the resources to properly analyze the medical fee schedule on an annual basis and whether doing so will result in steady increases to the medical fee schedule, thereby putting pressure on rates in both motor vehicle insurance and workers' compensation insurance. One of the primary cost drivers in both motor vehicle insurance and workers' compensation insurance when premiums were unaffordable in the 1990's was the high level of medical reimbursement. This bill could serve to quickly erode this cost containing provision in the law and lead to high premiums once again.

Third, a floor of 110% of Medicare will in addition, ensure that certain CPT codes are kept at this level, whether warranted or not. This may add unnecessary costs to both lines of insurance. Finally, an effective date of July 1 is not feasible as insurers must file rate adjustments if necessary, therefore we would recommend a January 1 effective date should this measure move forward.

If the Committee on Ways and Means believes this bill should move forward, we ask that the committee consider untying motor vehicle insurance from the workers' compensation medical fee schedule so that motor vehicle insurance premiums are not adversely impacted. In this event, we recommend the following language if the title of the bill is broad enough:

"Section 431:10C-103, Hawaii Revised Statutes, is amended by amending the definition of "medical fee schedule" to read as follows:

""Medical fee schedule" refers to one hundred ten per cent of the Medicare Resource Based Relative Value Scale System applicable to Hawaii, entitled "Workers' Compensation Supplemental Medical Fee Schedule"."

Section 431:10C-304(6), Hawaii Revised Statutes, is amended to read as follows:

"(6) Disputes between the provider and the insurer over the amount of a charge or the correct fee or procedure code to be used under the ~~workers' compensation supplemental~~ medical fee schedule shall be governed by section 431:10C-308.5; and"

Section 431:10C-308.5, Hawaii Revised Statutes, is amended to read as follows:

"§431:10C-308.5 Limitation on charges. ~~(a) As used in this article, the term "workers' compensation supplemental medical fee schedule" means 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. References in the workers' compensation supplemental medical fee schedule to "the employer", "the director", and "the industrial injury", shall be~~

~~respectively construed as references to "the insurer", "the commissioner", and "the injury covered by personal injury protection benefits" for purposes of this article.~~

(b)(a) The charges and frequency of treatment for services specified in section 431:10C-103.5(a), except for emergency services provided within seventy-two hours following a motor vehicle accident resulting in injury, shall not exceed the charges and frequency of treatment permissible under the ~~workers' compensation supplemental~~ medical fee schedule. Charges for independent medical examinations, including record reviews, physical examinations, history taking, and reports, to be conducted by a licensed Hawaii provider unless the insured consents to an out-of-state provider, shall not exceed the charges permissible under the appropriate codes in the ~~workers' compensation supplemental~~ medical fee schedule. The ~~workers' compensation supplemental~~ medical fee schedule shall not apply to independent medical examinations conducted by out-of-state providers if the charges for the examination are reasonable. The independent medical examiner shall be selected by mutual agreement between the insurer and claimant; provided that if no agreement is reached, the selection may be submitted to the commissioner, arbitration or circuit court. The independent medical examiner shall be of the same specialty as the provider whose treatment is being reviewed, unless otherwise agreed by the insurer and claimant. All records and charges relating to an independent medical examination shall be made available to the claimant upon request. The commissioner may adopt administrative rules relating to fees or frequency of treatment for injuries covered by personal injury protection benefits. If adopted, these administrative rules shall prevail to the extent that

they are inconsistent with the ~~workers' compensation supplemental~~ medical fee schedule; provided, however, the fees set forth in the administrative rules adopted by the commissioner shall not exceed the charges permissible under Section 386-21 and Section 386-(drug caps new section).

~~(c)~~(b) Charges for services for which no fee is set by the ~~workers' compensation supplemental~~ medical fee schedule or other administrative rules adopted by the commissioner shall be limited to eighty per cent of the provider's usual and customary charges for these services.

~~(d)~~(c) Services for which no frequency of treatment guidelines are set forth in the ~~workers' compensation supplemental~~ medical fee schedule or other administrative rules adopted by the commissioner shall be deemed appropriate and reasonable expenses necessarily incurred if so determined by a provider.

~~(e)~~(d) In the event of a dispute between the provider and the insurer over the amount of a charge or the correct fee or procedure code to be used under the ~~workers' compensation supplemental~~ medical fee schedule, the insurer shall:

- (1) Pay all undisputed charges within thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued and demand for payment thereof; and
- (2) Negotiate in good faith with the provider on the disputed charges for a period up to sixty days after the insurer has received reasonable proof of the fact and amount of benefits accrued and demand for payment thereof.

If the provider and the insurer are unable to resolve the dispute after a period of sixty days pursuant to paragraph (2), the provider, insurer, or claimant may submit the dispute to the commissioner, arbitration, or court of competent jurisdiction. The parties shall include documentation of the efforts of the insurer and the provider to reach a negotiated resolution of the dispute. This section shall not be subject to the requirements of section 431:10C-304(3) with respect to all disputes about the amount of a charge or the correct fee and procedure code to be used under the ~~workers'~~ ~~compensation supplemental~~ medical fee schedule. An insurer who disputes the amount of a charge or the correct fee or procedure code under this section shall not be deemed to have denied a claim for benefits under section 431:10C-304(3); provided that the insurer shall pay what the insurer believes is the amount owed and shall furnish a written explanation of any adjustments to the provider and to the claimant at no charge, if requested. The provider, claimant, or insurer may submit any dispute involving the amount of a charge or the correct fee or procedure code to the commissioner, to arbitration, or to a court of competent jurisdiction.

~~(f)~~(e) The provider of services described in section 431:10C-103.5(a) shall not bill the insured directly for those services but shall bill the insurer for a determination of the amount payable. The provider shall not bill or otherwise attempt to collect from the insured the difference between the provider's full charge and the amount paid by the insurer.

~~(g)~~(f) A health care provider shall be compensated by the insurer for preparing reports documenting the need for treatments which exceed the ~~workers' compensation~~

~~supplemental~~ medical fee schedule in accordance with the fee schedule for special reports. The health care provider may assess the cost of preparing a report to the insurer at no more than \$20 per page up to a maximum of \$75 for each report.”

Thank you for the opportunity to testify on this measure.

The Twenty-Seventh Legislature
Regular Session of 2014

THE SENATE
Committee on Ways and Means
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
State Capitol, Conference Room 211
Tuesday, February 25, 2014; 9:15 a.m.



**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2923, SD1
RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE**

The ILWU Local 142 supports S.B. 2923, SD1, which requires the Department of Labor and Industrial Relations (DLIR) to update the workers' compensation medical fee schedule annually and authorizes DLIR to establish a workers' compensation medical fee ceiling that exceeds 110% of the fees prescribed in the Medicare Resource Relative Value Scale for Hawaii. The measure sunsets on 6/30/19.

For almost two decades, medical fees for providers treating injured workers have been artificially suppressed to no more than 110% of the Medicare Resource Relative Value Scale for Hawaii. The change was enacted those many years ago to curb the rising cost of workers' compensation with the thought that providers were the source of the costs.

However, as a consequence of this drastic adjustment in fees, fewer and fewer physicians choose to treat injured workers today, particularly on the neighbor islands. Workers injured on the job are hard-pressed to find anyone who will offer treatment that will allow them to return to work in a timely manner. And, ironically, this serves to increase the cost of workers' compensation as more money is paid out in indemnity benefits to workers unable to return to gainful employment.

The proposal offered by the Legislative Auditor will allow the Department of Labor and Industrial Relations to set the ceiling for fees at an amount higher than the current ceiling. It also requires the Department to update fee schedules annually. Together, these two proposals will encourage more physicians and providers to enter the workers' compensation market, which will mean workers will get treatment they need to return to work and competition will improve the quality of care.

The only caveat is that this measure must be passed with an appropriation for the Department of Labor and Industrial Relations to have sufficient staff resources to carry out the requirements of the law. An unfunded mandate should not be permitted.

The ILWU urges passage of S.B. 2923, SD1. Thank you for considering our views.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: laurenzirbel@gmail.com
Subject: Submitted testimony for SB2923 on Feb 25, 2014 09:15AM
Date: Sunday, February 23, 2014 9:07:52 PM
Attachments: [SB 2923 WORKERS COMP HMA TESTIMONY IN SUPPORT.doc](#)

SB2923

Submitted on: 2/23/2014

Testimony for WAM on Feb 25, 2014 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Zirbel	Hawaii Medical Association	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

DATE: Tuesday, February 25, 2014
TIME: 9:15 a.m.
PLACE: Conference Room 211

TO:

COMMITTEE ON WAYS AND MEANS

Senator David Ige, Chair

Senator Michelle N. Kidani, Vice Chair

FROM: Hawaii Medical Association

Dr. Walton Shim, MD, President

Dr. Linda Rasmussen, MD, Legislative Co-Chair

Dr. Ron Kienitz, MD, Legislative Co-Chair

Dr. Christopher Flanders, DO, Executive Director

Lauren Zirbel, Community and Government Relations

Re: SB 2925 Relating to Workers' Compensation Medical Fee Schedule

Position: Strongly Support

The Hawaii Medical Association is submitting testimony in strong support of this measure as a means to address fair increases to the workers' compensation medical fee schedule. This legislation creates a reasonable process to evaluate issues affecting access to care for workers' compensation patients.

In 1995, a comprehensive package of legislative proposals was made to reform workers' compensation in response to rising insurance premiums. The Legislature couldn't agree on the more fair and meaningful reforms, so the medical fee schedule was arbitrarily slashed by 54%, basing reimbursement on Medicare plus 10%. Hawaii's medical fee schedule fell to fifth lowest in the nation, 18% below the national median. Counter-intuitively, costs per case continued to rise and soon exceeded pre-1995 levels.

The probable reason for this is the impact that inadequate reimbursement had on restricting access to care. A critical element in treating workers' compensation cases is immediate access to comprehensive medical care and management. Any delays tend to make the injury more costly, even to the extent of permanent impairments and disabilities. This also affects the time period the employee is off work, creating greater costs to employers for temporary disability payments.

Officers

*President - Walton Shim, MD President-Elect – Robert Sloan, MD
Secretary - Thomas Kosasa, MD Immediate Past President – Stephen Kemble, MD
Treasurer – Brandon Lee, MD Executive Director – Christopher Flanders, DO*

The legislature must recognize that the practice of medicine is also a business and therefore follows the same economic rules under which any business operates. In short, no business or profession can exist if they are forced to take a loss on sales or services. Predictably, there has been a steady exodus of physicians willing to treat injured workers. Because no-fault automobile injuries are reimbursed according to the workers' compensation fee schedule, these patients also have been having an increasingly difficult time receiving care for their injuries. The situation has finally reached crisis proportion as demonstrated by a Hawaii Medical Association survey indicating that over 65% of doctors that had previously taken these cases now refuse to do so. It is now extremely common that physicians refuse care of these injuries even to their established patients.

We have come to the legislature regularly to correct this problem since Act 234 was passed in 1995 asking for recognition that injured workers and their families are suffering as a result of low reimbursements impeding access to medical care. We hope that now the legislature finally understands this to be true and takes action to correct the situation.

Mahalo for the opportunity to submit testimony on this important issue.

To: The Honorable David Y. Ige, Chair
Senate Committee on Ways & Means

From: Mark Sektnan, Vice President

Re: **SB 2923 SD1 – Workers’ Compensation Medical Fee Schedule**
PCI Position: OPPOSE

Date: Tuesday, February 25, 2014
9:15 a.m., Conference Room 211

Aloha Chair Ige, Vice Chair Kidani and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is in opposition to SB 2923 SD1 which would require the Department of Labor and Industrial Relations (DLIR) to update the medical fee schedule annually and allow the DLIR to establish a fee schedule that exceeds 110% of the Medicare fee schedule.

PCI believes this bill is unnecessary. Title 21, Chapter 386 – 21 (c) of the Hawaii Revised Statutes already gives the Director of the Labor and Industrial Relations Department the authority to increase the allowance under the Medicare fee schedule to ensure “rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees.” The director has exercised this authority and has increased individual reimbursement rates when those who are asking for the increase are able to justify the need. PCI believes it is appropriate to continue to allow the Director to assess the reimbursement needs on an individual basis as needed and to consider the cost implications of changes to the medical fee schedule to ensure that injured workers are protected and the costs to employers are kept reasonable.

Last year, the Legislature passed HB 152 which required the auditor to assist the DLIR in reviewing and updating the medical fee schedule. The auditor has completed this work and the new fee schedule is now effective. Pressure to update the schedule annually in the absence of any actual need could result in an increased workload for an understaffed department and result in a higher fee schedule.

The Legislature may also want to maintain its traditional role in approving blanket increases to the medical fee schedule. It is important to note that in Hawaii the medical fee schedule applies not only to workers’ compensation but also to medical care provided under a personal auto policy and for medical care provided under a commercial personal

injury policy. Hawaii is already seeing increases in workers' compensation premiums. This year, the Commissioner approved an increase of more than 6%. This is the third straight year of increasing premiums which are the result of higher costs in the system. This bill could not only increase the costs of medical care in the workers' compensation system further driving up the cost of workers' compensation in Hawaii, but it could also drive up the costs of medical care expenses for automobile insurance. As a result, rates would increase for Hawaii's consumers.

For these reasons, PCI asks the committee to hold SB 2923 SD1.

TESTIMONY BEFORE THE SENATE
COMMITTEE ON WAYS AND MEANS

Tuesday, February 25, 2014
9:15 a.m.

SB 2923, SD1
RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE

By Marleen Silva
Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Ige, Vice Chair Kidani, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **strongly oppose S.B. 2923, SD1.** Our companies represent over 2,000 employees throughout the State.

This bill proposes to amend Section 386-21 HRS mandating annual reviews by the Director of the DLIR and allowing the director to establish an increase over the existing 110% of the Medicare program's medical fee schedule for Evaluation and Management (E/M) services, with an undefined maximum allowable fee ceiling.

While we support the intent, we believe this measure is unnecessary and ambiguous. The current statutes clearly define an equitable process to ensure the medical fees schedules are updated by the Director of the DLIR "every three years or annually, as required," and provide guidance and discretion in determining if reimbursement rates for medical services are adequate and appropriate. The widely used Current Procedural Terminology (CPT) code set is published annually with guidelines developed jointly by the professional associations of the American Medical Association (AMA) and the Center for Medicare Services (CMS), effective January 1st. E/M services are broad categories, subcategories, and classifications of CPT codes used by most physicians to report a significant portion of their services. They reflect the nature and amount of physician work, and documentation varies by the type of service, place of service, and patient's status.

The administrative requirements have been raised by physicians as a challenge in the workers' compensation system. However, physicians, employers, and insurance carriers have a duty and obligation to ensure charges billed are covered by the work injury and supported by medical record documentation for the services provided and procedures billed. Given that both workers' compensation and the auto insurance system use the same medical fee schedules, any increase in the reimbursement rates to health care providers will have an equivalent increase in costs for employers, and to consumers with higher motor vehicle insurance premiums.

For these reasons, we strongly oppose S.B. 2923, SD1 and respectfully request this measure be held.

Thank you for this opportunity to submit testimony.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Ways and Means
Tuesday, February 25, 2014 at 9:15 A.M.
Conference Room 211, State Capitol**

**RE: SENATE BILL 2923, SD1 RELATING TO WORKERS' COMPENSATION
MEDICAL FEE SCHEDULE**

Chair Ige, Vice Chair Kidani, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 2923, SD1 Relating to Workers' Compensation Medical Fee Schedule.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber has concerns that the increase in the medical fee schedule from 110% to a higher level of Medicare will raise workers' compensation costs and increase premiums paid by business. While we understand some of the concerns from the Auditor's report we believe that the workers compensation system already allows for reimbursement adjustments and this existing system has helped to maintain costs.

We ask that this bill be held. Thank you for this opportunity to express our views.

From: [Deborah Lockett](#)
To: [WAM Testimony](#)
Subject: SB 2923 Relating to WC Fee Schedule
Date: Monday, February 24, 2014 8:32:53 AM

In regard to Senate Bill 2923 I strongly support passage of this bill.

Patients in the community are finding it increasingly difficult to gain access to a physician that will deliver care to them for an injury that occurred in the workplace.

Our most valuable assets in Hawaii is our people.

It should be the State of hawaii's highest priority that injured workers receive an early accurate diagnosis, efficiently utilize their healthcare premium dollar and return to the activities of daily living and the workplace environment as soon as possible.

Hawaii has one of the lowest reimbursement rates in the nation for physicians that treat injured workers.

Also WC injuries require a doctor to employee additional personnel to navigate the complex WC system which in an electronic world, still remains in a time intensive, outdated paper world.

Your consideration of this bill would greatly assist access to care for injured workers.

Sincerely,

Deborah A. Lockett, MPH
Vice President of Corporate Affairs
Work*Star Injury Recovery Center



From: [Paola Grover](#)
To: [WAM Testimony](#)
Subject: SB2923 SD1 RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE
Date: Monday, February 24, 2014 11:49:59 AM

TO: Committee on Ways and Means

FROM: Your Name

SUBJECT: SB2923 SD1 RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE

I strongly support Senate Bill 2923 SD1. I believe this bill will provide a more accurate Medical Fee Schedule. For many years the Medical Fee Schedule has not kept up with rising cost.

Your passage of this bill will be greatly appreciated.

Paola Grover
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