

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

March 22, 2016

The Honorable Rosalyn H. Baker, Chair
and Members of the Committee
on Commerce, Consumer Protection, and Health
The Senate
State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Members of the Committee:

**SUBJECT: House Bill No. 2017, HD1
Relating to Workers' Compensation Treatment Plans**

The City and County of Honolulu opposes H.B. 2017, HD1. While the revisions made by the House Committee on Consumer Protection and Commerce attempt to address the concerns affected stakeholders have with the proposal, there are still two significant problems with the bill.

The City specifically objects to sections (d) and (e) of the bill. We oppose section (d) as it provides that a treatment plan is deemed accepted if an objection is not filed within seven business days following receipt. This is simply unfair to the employer as there are a myriad of reasons why the employer is unable to object to the treatment plan within the mandated time period.

Section 12-15-32 of the Medical Fee Schedule currently provides that an employer is responsible for payment of treatments provided for under a complete treatment plan until the date an objection is filed with the Director of Labor and Industrial Relations. That requirement is fair to all parties and should not be modified by the proposed legislation.

The City's objection to section (e) is due to the inability to provide an automatic electronic receipt upon receipt of a submitted treatment plan. The City, like most

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employers, currently does not have the technology to comply with this mandate. Even electronic receipt of requests received by facsimile would depend upon the sender programming its machine to provide such confirmation, rather than the recipient being able to do so automatically.

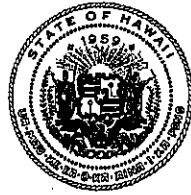
Based on the foregoing, we respectfully request that sections (d) and (e) of H.B. 2017, HD1, be deleted in their entirety. Should that occur, section (f) would then be rendered moot and should be deleted as well. Finally, we would request that section (c) also be deleted as the issue of whether an employer received a treatment plan is rarely at issue and, if so, should be left to the trier of fact to determine.

The stated purpose of the bill is to improve the efficiency of Hawaii's workers' compensation system by allowing the transmittal of treatment plans through electronic media. The amendments proposed by the City would accomplish said purpose, without generated additional concerns and conflict by implementation of an automatic approval process which currently does not exist.

Thank you for the opportunity to testify.

Sincerely,


for Carolee C. Kubo
Director



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March 22, 2016

To: The Honorable Rosalyn H. Baker, Chair,
The Honorable Michelle N. Kidani, Vice Chair, and
Members of the Senate Committee on Commerce, Consumer Protection,
and Health

Date: Tuesday, March 22, 2016
Time: 9:30 a.m.
Place: Conference Room 229, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 2017 HD1 Relating to Workers' Compensation Treatment Plans

I. OVERVIEW OF PROPOSED LEGISLATION

HB2017 HD1 proposes to add a new section in chapter 386, Hawaii Revised Statutes (HRS), to allow physicians to submit treatment plans of injured workers to employers by certified mail or facsimile or secure web portal or secure electronic mail. It will also require employers to accept electronically filed treatment plans and provide an electronic receipt.

The department offers comments on this measure.

II. CURRENT LAW

Sections 12-15-32, 12-15-40, 12-15-42 and 12-15-51, Hawaii Administrative Rules (HAR), provide the rights of the employer to file an objection within a specific time period. Sections 12-15-32 & 34 HAR, provide for a process where the employer is responsible for payment of treatments provided under a complete treatment plan until the date the objection is filed with the director.

III. COMMENTS ON THE HOUSE BILL

The department offers the following comments on this measure:

1. It is unclear whether this measure applies to all forms of treatment requests, office visits, request for consultations, surgery, concurrent care, therapies, or

just to services provided by the Physician per section 12-15-32, HAR.

2. The department appreciates the additional submittal options for physicians to file a treatment plan as long as it does not preclude submittals by regular mail. The department recommends that approval to transmit and receive the plans by email and facsimile be contingent on providers sending the plans to addresses as directed by the insurer/employer.
3. The department recommends eliminating the clause "Notwithstanding any law to the contrary" in section 2, subsection (a) to prevent conflicts with other laws that may take precedence over this statute.