

JAN 25 2017

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The legislature finds that Hawaii's existing
2 workers' compensation has been plagued by delays and denials,
3 and in many of those cases, insurers seem to automatically deny
4 the claim "pending investigation". These investigations may
5 include reviewing reports from an independent medical examiner,
6 interviewing other employees, looking at videotapes, or combing
7 through old medical records for evidence that the workplace
8 injury was related to a pre-existing condition. While the
9 insurer considers, sometimes for months, the patient is at times
10 unable to use private insurance or get money for which to live.

11 Accordingly, the purpose of this Act is to limit employers'
12 use of denying a claim pending investigation and impose fines
13 and penalties for those employers who continue doing so without
14 reasonable cause.

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



S.B. NO. 851

1 "§386- Payment by employer; duty to service provider;
2 disagreement with service provider; resolution procedures. (a)
3 Notwithstanding any other law to the contrary, the employer
4 shall pay for all medical services which the nature of the
5 compensable injury and the process of recovery require. The
6 employer shall not be required to pay for care unrelated to the
7 compensable injury.

8 (b) The employer shall not controvert a claim for
9 services:

10 (1) Without reasonable cause; or

11 (2) While the claim is pending investigation.

12 (c) When a provider of service notifies or bills an
13 employer, the employer shall notify the provider within thirty
14 calendar days of such notification or billing should the
15 employer controvert the claim for services. Failure by the
16 employer to submit timely notification to the provider of
17 services shall render the employer liable for services provided
18 until the employer satisfies the notification requirement.

19 (d) Any employer who has been properly notified or billed
20 by a provider of services rendered shall be liable for those
21 services and shall pay all charges billed within thirty calendar



1 days of receipt of such charges except for items where there is
2 reasonable disagreement. If more than thirty calendar days
3 lapse between the employer's receipt of an undisputed billing
4 and the date of the employer's payment, the provider shall be
5 allowed to increase the total outstanding balance owed by one
6 per cent per month.

7 (e) In the event of reasonable disagreement, the employer
8 shall pay for all acknowledged charges and shall notify the
9 provider of the denial of any payment including the reason for
10 the denial within thirty calendar days of receipt of a bill or
11 notification of services rendered and provide a copy of the
12 denial to the claimant. The employer's denial shall include a
13 statement as follows:

14 "IF THE PROVIDER OF SERVICE DOES NOT AGREE WITH THE
15 EMPLOYER'S STATED REASON FOR DENIAL OF PAYMENT, THE
16 PROVIDER OF SERVICE MAY FILE A BILL DISPUTE REQUEST
17 WITH THE DIRECTOR OF THE HAWAII DEPARTMENT OF LABOR
18 AND INDUSTRIAL RELATIONS. THE BILL DISPUTE REQUEST
19 SHALL BE CLEARLY IDENTIFIED AS A 'BILLING DISPUTE
20 REQUEST' IN CAPITAL LETTERS AND IN NO LESS THAN TEN
21 POINT FONT ON THE FRONT OF THE FIRST PAGE OF THE



1 REQUEST AND ON THE FRONT OF THE ENVELOPE IN WHICH THE
2 REQUEST IS SENT. THE BILL DISPUTE REQUEST SHALL
3 INCLUDE A COPY OF THE ORIGINAL BILL SENT TO THE
4 EMPLOYER. ANY BILL DISPUTE REQUEST SHALL BE FILED
5 WITHIN THIRTY CALENDAR DAYS AFTER POSTMARK OF THE
6 EMPLOYER'S DENIAL OF PAYMENT. THE PROVIDER OF
7 SERVICE'S FAILURE TO SUBMIT A TIMELY BILL DISPUTE
8 REQUEST SHALL BE CONSIDERED AS ACCEPTANCE OF THE
9 EMPLOYER'S DENIAL OF PAYMENT."

10 (f) Upon receipt of a bill dispute request, the director
11 shall send notice to both parties and the parties shall
12 negotiate during the thirty-one calendar days following the date
13 of the notice from the director. If the parties fail to enter
14 into an agreement during the thirty-one calendar days, then
15 within fourteen calendar days following the thirty-one day
16 negotiating period, either party may file a request, in writing,
17 to the director to review the dispute; provided that the
18 requesting party sends notice to the non-requesting party. Upon
19 receipt of the request for review, the director shall send the
20 parties a second notice requesting that each party file a
21 position statement with the director, including substantiating



1 documentation that describes the amount in dispute and all
2 actions taken to resolve the dispute during the fourteen
3 calendar days following the date of the second notice from the
4 director. The director shall review the positions of both
5 parties and render an administrative decision without hearing.
6 The director may assess a service fee of up to \$1,000 payable to
7 the general fund against one or both parties who fail to
8 negotiate in good faith. Denial of payment without reasonable
9 cause shall be considered a failure to negotiate in good faith."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2017.

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INTRODUCED BY: ~~AND~~ A.C. Fick-Agnes
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S.B. NO. 857

Report Title:

Workers' Compensation; Employers; Service Providers; Payment; Disagreement; Resolution Procedures

Description:

Establishes that employers shall pay all workers compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a pending investigation. Establishes that employers shall notify providers of service of any billing disagreements and allows providers to charge an additional rate to employers who fail to adhere to the notification requirements. Establishes resolution procedures for employers and providers who have a reasonable disagreement over liability for services provided an injured worker.

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

