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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. 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, how to proceed on a  
10 claim, the patient is at times unable to receive compensation.

11           Accordingly, the purpose of this Act is to prevent  
12 employers from denying a claim without reasonable cause or while  
13 the claim is pending investigation and impose fines and  
14 penalties on those employers who continue doing so without  
15 reasonable cause.



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

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

11 (b) The employer shall not controvert a claim for  
12 services:

13 (1) Without reasonable cause; or

14 (2) While the claim is pending investigation;  
15 provided that a claim shall be presumed compensable when  
16 submitted by an employee who is excluded from health care  
17 coverage under the Hawaii Prepaid Health Care Act.

18 (c) If an employer controverts a claim for services  
19 rendered or a bill received pursuant to subsection (a), the  
20 employer shall notify the provider of services of that fact  
21 within calendar days of receipt of the notification or



1 bill. Failure by the employer to submit timely notice to the  
2 provider of services shall render the employer liable for  
3 services provided until the employer satisfies the notice  
4 requirement and except as provided in subsection (d).

5 (d) Any employer who has received a notification of  
6 services rendered or a bill from a provider of services shall be  
7 liable for those services and shall pay all charges listed in  
8 the notification of services rendered or the bill within thirty  
9 calendar days of receipt of the notification or bill, except for  
10 items where there is reasonable disagreement. After expiration  
11 of the thirty-calendar-day time period for payment, the provider  
12 of services may increase the total outstanding balance owed for  
13 undisputed services or charges by one per cent per month.

14 (e) In the event of reasonable disagreement, the employer  
15 shall pay all undisputed charges, shall notify the provider of  
16 the denial of payment of any disputed charges and the reason for  
17 the denial within thirty calendar days of receipt of the bill or  
18 notification of services rendered, and shall provide a copy of  
19 the denial to the employee. The employer's denial shall include  
20 a statement as follows:



1 "IF THE PROVIDER OF SERVICE DOES NOT AGREE WITH THE  
2 EMPLOYER'S STATED REASON FOR DENIAL OF PAYMENT, THE  
3 PROVIDER OF SERVICE MAY FILE A BILL DISPUTE REQUEST  
4 WITH THE DIRECTOR OF THE HAWAII DEPARTMENT OF LABOR  
5 AND INDUSTRIAL RELATIONS. THE BILL DISPUTE REQUEST  
6 SHALL BE CLEARLY IDENTIFIED AS A 'BILLING DISPUTE  
7 REQUEST' IN CAPITAL LETTERS AND IN NO LESS THAN TEN  
8 POINT FONT ON THE FRONT OF THE FIRST PAGE OF THE  
9 REQUEST AND ON THE FRONT OF THE ENVELOPE IN WHICH THE  
10 REQUEST IS SENT. ANY BILL DISPUTE REQUEST SHALL BE  
11 FILED WITHIN THIRTY CALENDAR DAYS AFTER POSTMARK OF  
12 THE EMPLOYER'S DENIAL OF PAYMENT. THE PROVIDER OF  
13 SERVICE'S FAILURE TO SUBMIT A TIMELY BILL DISPUTE  
14 REQUEST SHALL BE CONSIDERED AS ACCEPTANCE OF THE  
15 EMPLOYER'S DENIAL OF PAYMENT."

16 (f) Upon receipt of a bill dispute request, the director  
17 shall send notice to the parties and the parties shall negotiate  
18 to resolve the disputed services or charges during the thirty-  
19 one calendar days following the date of the notice from the  
20 director. If the parties fail to enter into an agreement during  
21 the thirty-one calendar days, then within fourteen calendar days



1 thereafter, either party may file a request, in writing, to the  
2 director to review the bill dispute request; provided that the  
3 requesting party sends notice of such request to the non-  
4 requesting party. Upon receipt of the request for review, the  
5 director shall send the parties a second notice requesting that  
6 each party file a position statement with the director,  
7 including substantiating documentation that describes the  
8 services and amounts in dispute and all actions taken to resolve  
9 the dispute during the fourteen-day period of negotiation under  
10 this subsection. The director shall review the positions of the  
11 parties and render an administrative decision without a hearing.  
12 The director may assess a service fee of up to \$1,000 payable to  
13 the general fund against one or more parties who the director  
14 finds has failed to negotiate in good faith. Denial of payment  
15 without reasonable cause shall be considered a failure to  
16 negotiate in good faith.

17 (g) An employee shall be liable for reimbursement of  
18 benefits or payments received under this section for any  
19 controverted claim that is found to be uncompensable, whether  
20 received from an employer, insurer, or the special compensation  
21 fund. Reimbursement shall be made to the source from which the



1 compensation was received, and may include recoupment by the  
2 insurer of all payments made for medical care, medical services,  
3 vocational rehabilitation services, and all other services  
4 rendered for payment under this section."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on January 7, 2059.



**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. Creates a presumption of compensability for claims submitted by employees excluded from coverage under the Hawaii Prepaid Health Care Act. Establishes that employers shall notify providers of service of any billing disagreements and allows providers to charge an additional rate to employers for outstanding balances owed for undisputed services or charges. Establishes resolution procedures for employers and providers who have a reasonable disagreement over liability for services rendered. Requires an employee whose claim is found to be uncompensable to submit reimbursements for services rendered. (SB857 HD1)

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

