
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 with 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:



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 required by the employee due
5 to the nature of the compensable injury and the process of
6 recovery. The employer shall not be required to pay for care
7 unrelated to the 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 provided that a claim shall be presumed compensable when
13 submitted by an employee who is excluded from health care
14 coverage under the Hawaii Prepaid Health Care Act.

15 (c) Upon receipt by an employer of a notification of
16 services rendered or a bill pursuant to subsection (a), if an
17 employer controverts the claim for services rendered, the
18 employer shall notify the provider of that fact within thirty
19 calendar days of receipt of the notification of services
20 rendered or bill. Failure by the employer to submit timely
21 notice to the provider of services shall render the employer



1 liable for services provided until the employer satisfies the
2 notice requirement.

3 (d) Any employer who has received a notification of
4 services rendered or bill by a provider of services rendered
5 shall be liable for those services and shall pay all charges
6 listed in the notification of services rendered or bill within
7 thirty calendar days of receipt of such charges, except for
8 items where there is reasonable disagreement. If more than
9 thirty calendar days lapse between the employer's receipt of an
10 undisputed notification of services rendered or bill and the
11 date of the employer's payment, the provider may increase the
12 total outstanding balance owed by one per cent per month.

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

20 "IF THE PROVIDER OF SERVICE DOES NOT AGREE WITH THE
21 EMPLOYER'S STATED REASON FOR DENIAL OF PAYMENT, THE



1 PROVIDER OF SERVICE MAY FILE A BILL DISPUTE REQUEST
2 WITH THE DIRECTOR OF THE HAWAII DEPARTMENT OF LABOR
3 AND INDUSTRIAL RELATIONS. THE BILL DISPUTE REQUEST
4 SHALL BE CLEARLY IDENTIFIED AS A 'BILLING DISPUTE
5 REQUEST' IN CAPITAL LETTERS AND IN NO LESS THAN TEN
6 POINT FONT ON THE FRONT OF THE FIRST PAGE OF THE
7 REQUEST AND ON THE FRONT OF THE ENVELOPE IN WHICH THE
8 REQUEST IS SENT. THE BILL DISPUTE REQUEST SHALL
9 INCLUDE A COPY OF THE ORIGINAL NOTIFICATION OF
10 SERVICES RENDERED OR BILL SENT TO THE EMPLOYER. ANY
11 BILL DISPUTE REQUEST SHALL BE FILED WITHIN THIRTY
12 CALENDAR DAYS AFTER POSTMARK OF THE EMPLOYER'S DENIAL
13 OF PAYMENT. THE PROVIDER OF SERVICE'S FAILURE TO
14 SUBMIT A TIMELY BILL DISPUTE REQUEST SHALL BE
15 CONSIDERED AS ACCEPTANCE OF THE EMPLOYER'S DENIAL OF
16 PAYMENT."

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



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

17 (g) Whenever a controverted claim is found to be non-
18 compensable, the employee shall be liable for reimbursement of
19 benefits or payments received under this section, whether
20 received from an employer, insurer, or the special compensation
21 fund, to be made to the source from which the compensation was



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

5 SECTION 3. New statutory material is underscored.

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

7



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 who fail to adhere to the notice requirements. Establishes resolution procedures for employers and providers who have a reasonable disagreement over liability for services provided an injured worker. Requires an employee whose claim is found to be non-compensable to submit reimbursements for services rendered. Effective 1/7/2059.
(SD1)

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

