

HB 808

RELATING TO WORKERS' COMPENSATION.
LAB, FIN

HB808



Submit Testimony

Measure Title: RELATING TO WORKERS' COMPENSATION.

Report Title: Workers' Compensation; Medical Fee Schedule; Appropriation (\$)

Description: Requires the director of labor and industrial relations to set workers' compensation medical charges that correspond to the United States Department of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii. Requires the department of labor and industrial relations to submit a report to the legislature. Makes an appropriation for analysis of the Act's impact on injured worker's access to treatment. Repeals on 12/31/2024.

Companion:

Package: None

Current Referral: LAB, FIN

Introducer(s): JOHANSON, HOLT

<u>Sort by Date</u>		Status Text
1/23/2017	H	Pending introduction.
1/25/2017	H	Pass First Reading
1/27/2017	H	Referred to LAB, FIN, referral sheet 4
2/3/2017	H	Bill scheduled to be heard by LAB on Tuesday, 02-07-17 9:00AM in House conference room 309.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

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 injured workers,
2 generally of average adult age and employed, are dissimilar from
3 the medicare population, mostly an elderly group with chronic
4 degenerative conditions. Injured workers need immediate access
5 to physicians and rehabilitative providers for treatment to
6 appropriately return to work as soon as possible. Access to
7 medical and rehabilitative treatment for injured workers is
8 restricted because few providers accept workers' compensation
9 patients due to burdensome documentation and reporting, slow
10 approval and payment processing, and inadequate fee
11 reimbursements. Access to workers' compensation treatment is
12 especially limited on neighbor islands where there is already a
13 shortage of physicians.

14 Section 386-21, Hawaii Revised Statutes, requires the
15 director of labor and industrial relations to determine charges
16 that do not exceed one hundred ten per cent of fees prescribed
17 in the Medicare Resource Based Relative Value Scale applicable



H.B. NO. 808

1 to Hawaii and allows the director to establish an additional fee
2 schedule under certain circumstances. The state auditor's 2013
3 "Report on Methodology for the Department of Labor and
4 Industrial Relations' Workers' Compensation Medical Fee
5 Schedule" states that flat medicare fee reimbursement rates
6 since at least 2011 indicate the need for an incentive for
7 doctors. Currently, medicare physician fee reimbursements are
8 about eighty per cent of those paid by private health insurance.
9 These fee reimbursements are projected to drop to forty per cent
10 within twenty years and to twenty-five per cent in seventy-five
11 years. If Congress continues to allow this reimbursement
12 differential, increasingly severe problems with access to
13 physician services are expected.

14 The legislature further finds that the United States
15 Department of Labor Office of Workers' Compensation Programs
16 (OWCP), a nationwide program for federal workers, protects the
17 interests of workers who are injured or become ill on the job,
18 their families, and their employers by making timely,
19 appropriate, and accurate decisions on claims, providing prompt
20 payment of benefits, and helping injured workers return to
21 gainful work as early as is feasible. The OWCP fee schedule



1 provides the necessary incentive for Hawaii's physicians and
2 rehabilitation providers to treat injured workers and eliminates
3 the need for the department of labor and industrial relations'
4 limited staff and resources to review thousands of fee codes to
5 determine appropriate reimbursement.

6 The purpose of this Act is to ensure that injured workers
7 receive medical treatment through rates and fees that are
8 adequate for standards of services and care intended for injured
9 employees.

10 SECTION 2. Section 386-21, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The liability of the employer for medical care,
13 services, and supplies shall be limited to the charges
14 [~~computed~~] as set forth in this section. [~~The director shall~~
15 ~~make determinations of the charges and adopt fee schedules based~~
16 ~~upon those determinations.~~] Effective January 1, [~~1997,~~] 2018,
17 and for each succeeding calendar year thereafter, the charges
18 shall [~~not exceed one hundred ten per cent of fees prescribed in~~
19 ~~the Medicare Resource Based Relative Value Scale applicable to~~
20 ~~Hawaii as prepared by the United States Department of Health and~~
21 ~~Human Services, except as provided in this subsection.~~]



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1 correspond to codes and fees as established in the United States
2 Department of Labor Office Workers' Compensation Programs fee
3 schedule. The rates or fees provided for in this section shall
4 be adequate to ensure at all times the standard of services and
5 care intended by this chapter to injured employees.

6 If the director determines that an allowance under the
7 ~~[medicare program is not reasonable or if]~~ United States
8 Department of Labor Office Workers' Compensation Programs fee
9 schedule for a medical treatment, accommodation, product, or
10 service existing as of June 29, 1995, is not covered under the
11 ~~[medicare program,]~~ fee schedule, the director, at any time, may
12 establish an additional fee schedule or schedules not
13 ~~[exceeding]~~ below the prevalent charge for fees for services
14 actually received by providers of health care services, to cover
15 charges for that treatment, accommodation, product, or service.
16 ~~[If no prevalent charge for a fee for service has been~~
17 ~~established for a given service or procedure, the director shall~~
18 ~~adopt a reasonable rate which shall be the same for all~~
19 ~~providers of health care services to be paid for that service or~~
20 ~~procedure.]~~



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1 The director shall update the schedules required by this
2 section every three years or annually, as required. The updates
3 shall be based upon[+

4 ~~(1) Future] future charges or additions prescribed in the
5 ~~[Medicare Resource Based Relative Value Scale
6 ~~applicable to Hawaii as prepared by the United States
7 ~~Department of Health and Human Services; or~~~~~~~~

8 ~~(2) A statistically valid survey by the director of
9 ~~prevalent charges for fees for services actually
10 ~~received by providers of health care services or based
11 ~~upon the information provided to the director by the
12 ~~appropriate state agency having access to prevalent
13 ~~charges for medical fee information.] Office Workers'
14 ~~Compensation Programs fee schedule as prepared by the
15 ~~United States Department of Labor.~~~~~~~~~~~~~~~~

16 When a dispute exists between an insurer or self-insured
17 employer and a medical services provider regarding the amount of
18 a fee for medical services, the director may resolve the dispute
19 in a summary manner as the director may prescribe; provided that
20 a provider shall not charge more than the provider's private
21 patient charge for the service rendered.



1 When a dispute exists between an employee and the employer
2 or the employer's insurer regarding the proposed treatment plan
3 or whether medical services should be continued, the employee
4 shall continue to receive essential medical services prescribed
5 by the treating physician necessary to prevent deterioration of
6 the employee's condition or further injury until the director
7 issues a decision on whether the employee's medical treatment
8 should be continued. The director shall make a decision within
9 thirty days of the filing of a dispute. If the director
10 determines that medical services pursuant to the treatment plan
11 should be or should have been discontinued, the director shall
12 designate the date after which medical services for that
13 treatment plan are denied. The employer or the employer's
14 insurer may recover from the employee's personal health care
15 provider qualified pursuant to section 386-27, or from any other
16 appropriate occupational or non-occupational insurer, all the
17 sums paid for medical services rendered after the date
18 designated by the director. Under no circumstances shall the
19 employee be charged for the disallowed services, unless the
20 services were obtained in violation of section 386-98. The
21 attending physician, employee, employer, or insurance carrier



1 may request in writing that the director review the denial of
2 the treatment plan or the continuation of medical services."

3 SECTION 3. The department of labor and industrial
4 relations shall analyze the impact of this Act on workers'
5 compensation claimants' access to appropriate treatment and
6 report its findings and recommendations, including any proposed
7 legislation, to the legislature no later than twenty days prior
8 to the convening of the regular session of 2024.

9 SECTION 4. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2017-2018 and
12 the same sum or so much thereof as may be necessary for fiscal
13 year 2018-2019 for analysis of the impact of this Act on
14 workers' compensation claimants' access to appropriate
15 treatment.

16 The sums appropriated shall be expended by the department
17 of labor and industrial relations for the purposes of this Act.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on January 1, 2018,
21 and shall be repealed on December 31, 2024; provided that

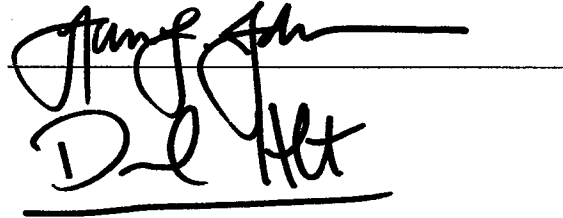


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1 section 386-21(c), Hawaii Revised Statutes, shall be reenacted
2 in the form in which it read on the day prior to the effective
3 date of this Act.

4

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Daniel Helt", is written over a horizontal line. The signature is stylized and cursive.

JAN 23 2017



H.B. NO. 808

Report Title:

Workers' Compensation; Medical Fee Schedule; Appropriation

Description:

Requires the director of labor and industrial relations to set workers' compensation medical charges that correspond to the United States Department of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii. Requires the department of labor and industrial relations to submit a report to the legislature. Makes an appropriation for analysis of the Act's impact on injured worker's access to treatment. Repeals on 12/31/2024.

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



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 7, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 7, 2017
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

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

Re: H.B. No. 808 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal seeks to amend section 386-21(c), Hawaii Revised Statutes (HRS), by changing the fee reimbursement for medical care, services, and supplies from the Medicare Resource Based Relative Value Scale applicable to Hawaii (Medicare plus ten percent) to fees that correspond with the United States Department of Labor Office of Workers' Compensation Programs (OWCP) fee schedule effective January 1, 2018. This proposal also requires the Department to analyze the impact of this Act on workers' compensation claimants' access to appropriate treatment and to report its findings and recommendations to the legislature prior to the 2024 Legislative Session. This Act shall repeal on December 31, 2024.

The department offers its comments below.

II. CURRENT LAW

Section 386-21, HRS, specifies that the liability of the employer for medical care, services and supplies shall be limited to charges up to 110 percent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii (Medicare fee schedule). 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.

The 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 every three years or annually, as required.

III. COMMENTS ON THE HOUSE BILL

The Department favors an increase in the reimbursement rate to providers of service for workers' compensation claimants and is considering other alternatives to the current fee schedule and plans to have a proposal for discussion shortly. However, DLIR has concerns about using the United States Department of Labor Office Workers' Compensation Programs (OWCP) fee schedule and offers the following comments:

- The OWCP uses a conversion factor (CF) to convert the relative value units (RVU) into an actual dollar amount. The OWCP devises its own conversion factors based on program-specific data, national billing data from other federal programs, state workers' compensation programs and the U.S. Department of Labor's Bureau of Labor Statistics consumer price index (CPI) data. DLIR is concerned that the OWCP involves factors outside of the Department's control and is not specifically adjusted to Hawaii.
- The OWCP fees, in many cases, exceed the rates charged by Hawaii's prevalent healthcare contractors, which is not the intent of 386-21, HRS.
- DLIR is concerned that any significant increase in reimbursements to medical providers will result in additional costs and higher insurance fee premiums for employers. Oregon State, Department of Consumer and Business Services, issued a "Workers' Compensation Premium Rate Ranking" report in October 2016. The report indicates that Hawaii is ranked 17 out of 51 (see attached chart).
- This proposal also requires the Department to analyze the impact of this Act on workers' compensation claimants' access to treatment and to report its findings and recommendations to the legislature prior to the 2024 Legislative Session. In addition, this Act will repeal on December 31, 2024 and this section will revert back to its current form. The Department would like to point out that if the providers are paid at a higher rate, they will strongly object to their fees being reduced if the fee schedule reverts back to its current language in 2025.

Table 2. Workers' compensation premium rate ranking

2016 Ranking	2014 Ranking	State	Index Rate	Percent of study median	Effective Date	Percent of 2014 study median
1	1	California	3.24	176%	January 1, 2016	188%
2	3	New Jersey	2.92	158%	January 1, 2016	152%
3	4	New York	2.83	154%	October 1, 2015	148%
5	2	Connecticut	2.74	149%	January 1, 2016	155%
5	5	Alaska	2.74	149%	January 1, 2016	145%
6	9	Delaware	2.32	126%	December 1, 2015	125%
8	6	Oklahoma	2.23	121%	January 1, 2016	137%
8	7	Illinois	2.23	121%	January 1, 2015	127%
9	20	Rhode Island	2.20	119%	August 1, 2014	107%
10	10	Louisiana	2.11	115%	January 1, 2016	120%
11	11	Montana	2.10	114%	July 1, 2015	119%
12	23	Wisconsin	2.06	112%	October 1, 2015	104%
14	8	Vermont	2.02	110%	April 1, 2015	125%
14	13	Maine	2.02	110%	April 1, 2015	116%
15	17	Washington	1.97	107%	January 1, 2016	108%
17	27	Hawaii	1.96	107%	January 1, 2016	100%
17	12	New Hampshire	1.96	106%	January 1, 2016	118%
18	17	South Carolina	1.94	105%	September 1, 2015	108%
20	21	Missouri	1.92	104%	January 1, 2016	107%
20	20	New Mexico	1.92	104%	January 1, 2016	108%
22	20	Minnesota	1.91	104%	January 1, 2016	107%
22	27	North Carolina	1.91	103%	April 1, 2015	100%
23	31	Wyoming	1.87	101%	January 1, 2016	95%
24	24	Iowa	1.86	101%	January 1, 2016	101%
25	29	Alabama	1.85	100%	March 1, 2015	97%
26	17	Pennsylvania	1.84	100%	April 1, 2015	108%
27	32	Georgia	1.80	98%	March 1, 2015	95%
28	14	Idaho	1.79	97%	January 1, 2016	109%
29	38	Mississippi	1.70	92%	March 1, 2015	85%
30	22	Tennessee	1.68	91%	March 1, 2015	105%
32	30	Nebraska	1.67	91%	February 1, 2015	96%
32	25	South Dakota	1.67	91%	July 1, 2015	100%
33	28	Florida	1.66	90%	January 1, 2016	98%
34	34	Michigan	1.57	85%	January 1, 2015	91%
35	41	Colorado	1.56	84%	January 1, 2016	81%
36	40	Kentucky	1.52	82%	October 1, 2015	82%
38	37	Arizona	1.50	82%	January 1, 2016	86%
38	35	Maryland	1.50	82%	January 1, 2016	88%
40	36	Texas	1.45	79%	July 1, 2015	87%
40	33	Ohio	1.45	79%	July 1, 2015	94%
41	39	Kansas	1.41	77%	January 1, 2016	83%
42	45	District of Columbia	1.37	74%	November 1, 2015	70%
43	46	Nevada	1.31	71%	March 1, 2015	68%
44	48	Massachusetts	1.29	70%	April 1, 2014	63%
45	43	OREGON	1.28	69%	January 1, 2016	74%
46	45	Utah	1.27	69%	December 1, 2015	71%
47	48	Virginia	1.24	67%	April 1, 2015	63%
48	43	West Virginia	1.22	66%	November 1, 2015	74%
49	49	Arkansas	1.06	57%	July 1, 2015	58%
50	50	Indiana	1.05	57%	January 1, 2016	57%
51	51	North Dakota	0.89	48%	July 1, 2015	47%

Notes: Starting with the 2008 study, when two or more states' Index Rate values are the same, they are assigned the same ranking. The index rates reflect adjustments for the characteristics of each individual state's residual market. Rates vary by classification and insurer in each state. Actual cost to an employer can be adjusted by the employer's experience rating, premium discount, retrospective rating, and dividends. [Link to previous reports and summaries](#)

Employers can reduce their workers' compensation rates through accident prevention, safety training, and by helping injured workers return to work quickly.

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DEPUTY DIRECTOR

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

February 6, 2017

**TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT**

For Hearing on Tuesday, February 7, 2017
9:00 a.m., Conference Room 309

BY

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 808
Relating to Workers' Compensation

(WRITTEN TESTIMONY ONLY)

TO CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE
COMMITTEE:

Thank you for the opportunity to provide **comments** on H.B. 808.

The purposes of H.B. 808 are to require the director of labor and industrial relations to set workers' compensation medical charges that correspond to the United States Department of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii; require the department of labor and industrial relations to submit a report to the legislature; and make an appropriation for analysis of the Act's impact on injured worker's access to treatment.

The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds.

DHRD appreciates and understands the need to incentivize more physicians and other medical providers to treat workers who are injured or become ill in the course and

scope of their employment. We believe that having more physicians and medical providers participating in the workers' compensation system would lead to more choices, better quality, and more timely provision of services to our injured workers.

However, if the United States Department of Labor Office of Workers' Compensation Programs fee schedule allows for fees that are higher than the existing Medicare fee schedule, this bill will drive further increases in our medical costs. We note that even under the current fee schedule, the cost of medical care, services, and supplies is already the most expensive cost item in our self-insured workers' compensation program, consistently averaging at least 40% of our total costs. These costs were already expected to increase in light of recent administrative and court decisions, including the 2015 Hawaii Supreme Court decision, Pulawa v. Oahu Construction Co., Ltd., and Seabright Insurance Company, SCWC-11-0001019 (Hawai'i November 4, 2015) which liberalized the standard for medical treatment from "reasonable and necessary" to "reasonably needed" and allows claimants to "receive[] the opportunity for the greatest possible medical rehabilitation." Thus, the overall impact of this bill will likely result in DHRD requesting future increases to our HRD102 appropriation to pay workers' compensation claims under Chapter 386, HRS.

Should the Committee move this bill forward, we recommend that Section 3 to be amended such that the Department of Labor will also analyze and report on the impact of this Act on the cost to employers:

SECTION 3. The department of labor and industrial relations shall analyze the impact of this Act on workers' compensation claimants' access to appropriate treatment and on employers' workers' compensation costs and report its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2024.

In the alternative, we respectfully request consideration be given to deferring this measure pending completion of the respective reports from the Workers' Compensation Working Group convened by House Concurrent Resolution 168 (2015) for the purpose of streamlining the WC process under chapter 386; and the workers' compensation

closed claims study mandated by Act 188 (SLH 2016), wherein the legislature found that “a closed claims study is warranted to objectively review whether specific statutory changes are necessary” to the workers’ compensation law. Upon delivery of the respective reports to the legislature, the empirical findings and specific recommendations of the working group and closed claims study can inform any legislative initiatives on workers’ compensation.

Date: February 6, 2017

To: Chair Johanson and Members of the House LAB Committee

RE: HB 808, OWCP, Hse LAB Hearing, Tues Feb 7 - 9am

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

Should there be any questions please contact us immediately at (808) 521-8500, or via email shawna@hawaiipt.com.

Sincerely,



Shawna Yee



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814

Phone (808) 536-7702 Fax (808) 528-2376

www.hawaiimedicalassociation.org

FROM:

HAWAII MEDICAL ASSOCIATION

Dr. Chris Flanders, Executive Director

Lauren Zirbel, Community and Government Relations

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair

Rep. Daniel Holt, Vice Chair

DATE: Tues., February 7, 2017

TIME: 9:00am

PLACE: Conference Room 309
State Capitol

Position: SUPPORT of HB 808

On behalf of the physician and medical student members of the Hawaii Medical Association, we are writing regarding our ongoing commitment to improving Hawaii's health care system.

The HMA supports this legislation, which requires the director of labor and industrial relations to set workers' comp medical charges that correspond to the US Dept. of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii.

We believe this legislation will improve access to care for injured workers.

Mahalo for the opportunity to testify.

HMA OFFICERS

President – Bernard Robinson, MD President-Elect – William Wong, Jr., MD Secretary – Thomas Kosasa, MD

Immediate Past President – Scott McCaffrey, MD Treasurer – Michael Champion, MD

Executive Director – Christopher Flanders, DO

LEHUA PHYSICAL THERAPY AND REHAB



2-6-17

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is definitely worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

Aloha,

A handwritten signature in black ink, appearing to read 'Patti Taira-Tokuuke' followed by a stylized flourish.

Patti Taira-Tokuuke, M.S., PT
Lehua Physical Therapy and Rehab
Phone: (808) 969-3811
Fax: (808) 969-6630

KAUAI COMMUNITY HEALTH ALLIANCE
HALE LEA MEDICINE

2460 Oka Street
Kilauea, Kauai, HI 96754
808.828.2885 phone
808.828.0119 fax
www.kauai-medical.org
winkler@kauai-medical.org (email)

February 3, 2017

Re: **SUPPORT HB808**

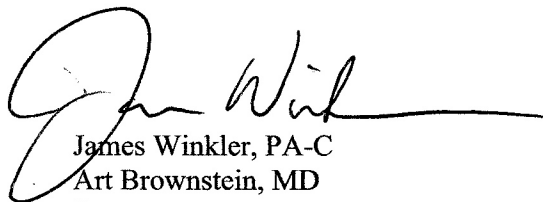
Dear Sir or Madam:

Hale Lea Medicine is one of the few remaining clinics still accepting Workers Compensation insurance ("WC") on the island of Kauai.

Excessive paperwork, low reimbursement and repeated down-coding of charges by insurers has resulted in the majority of primary care offices no longer accepting WC patients.

We urge you to adopt the Federal WC medical Fee Schedule in an attempt to bring our state more in line with national standards, as well as stemming the attrition of medical providers willing to offer medical care to Hawaii residents injured at work.

Respectfully,



James Winkler, PA-C
Art Brownstein, MD
Steve Rogoff, MD
KAUAI COMMUNITY HEALTH ALLIANCE
HALE LEA MEDICINE



HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

(800) 554-5569 x13 • www.hapta.org • info@hapta.org

HB 808, Relating to Workers' Compensation
House LAB Committee Hearing
Tuesday, Feb. 7, 2017 – 9:00 am
Room 309
Position: Strong Support

Chair Johanson and Members of the House Labor Committee:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association, a non-profit professional organization serving more than 300 member Physical Therapists and Physical Therapist Assistants. Our members are employed in hospitals and health care facilities, the Department of Education school system, and private practice. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

HAPTA appreciates HB 808 and strongly supports this measure that will increase access to medical and rehabilitative care for injured workers, particularly on the Neighbor Islands where there is a shortage of physicians.

Section 386-21, HRS currently requires DLIR to determine charges for workers' compensation treatment that do not exceed 110 per cent of fees prescribed in the Medicare Resource Based Relative Value Scale applicable to Hawaii. It allows the Director to establish an additional fee schedule, known as Exhibit A for codes determined to be undervalued or treatment codes that are not found in the Medicare schedule that is generally for older patients with chronic disease management. The analysis of what treatment codes and fees for injured workers separate from the Medicare-based schedule must require DLIR to deploy staff, time and resources.

The existing law leaves the development of injured worker treatment codes and fees to the discretion of the DLIR Director. In November 2016, the Director proposed eliminating many codes from the Exhibit A schedule and moving them back to the Medicare plus 10 per cent level within the statutes. This was vigorously opposed by the medical and rehabilitative providers. The higher stakes on outcomes with workers' compensation cases require far more oversight, space requirements, equipment and documentation than with Medicare. Hawaii's 10 percent differential does not compensate for this and that is recognized by most other states that connect their systems with Medicare and set their differentials much higher.

HB 808 moves the fee schedule for injured workers away from a Medicare-based schedule, to one that is specific to injured workers, the federal Office Workers' Compensation Program (OWCP). DLIR staff will no longer need to do lengthy analysis of injured workers' treatment codes and fees since the OWCP is a national fee schedule. The OWCP provides incentives to doctors to accept injured workers as the reimbursement places it at about Medicare plus 30 per cent which returns Hawaii providers closer to the average compensation across the nation for injured worker treatment.

Ultimately, this change to the OWCP fee schedule ensures that injured workers receive medical treatment through rates and fees that are adequate for standards of services and care intended for injured employees.

Your support of HB 808 is appreciated. Thank you for the opportunity to testify. Please feel free to contact Derrick Ishihara, HAPTA Workers' Compensation Committee Chair at (808) 221-8620 or Herbert Yee, HAPTA Reimbursement Committee member at (808) 348-3763 for further information.

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

holt1 - Joyleanne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 2:00 PM
To: LABtestimony
Cc: moore4640@hawaiiantel.net
Subject: *Submitted testimony for HB808 on Feb 7, 2017 09:00AM*

HB808

Submitted on: 2/6/2017

Testimony for LAB on Feb 7, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Moore	Hawaii Injured Workers Association	Support	No

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Molokai Physical Therapy

P.O. Box 1006, Kaunakakai, HI 96748

Phone: (808) 553-3393 / Fax: (866) 914-1765

2/6/17

Re: HB 808

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for injured workers is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to excessive documentation, slow approval and payment processing, and inadequate fee reimbursements. This is made worse on Neighbor Islands here in Hawaii, due to physician & rehabilitation specialist provider shortages.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is greatly appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you for your time & attention with this matter.

Sincerely,



Kirsten Hirsch, MPT

Private practice outpatient physical therapist, practicing on the rural island of Molokai, HI

Molokai Physical Therapy

PO Box 1006

Kaunakakai, HI 96748

808-553-3393

2-6-17

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

Janet Barretta PT
JANET S. BARRETTA, PT

Hawaii State Legislature
House Committee on Labor and Public Employment
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 5, 2017

Filed via electronic testimony submission system

RE: HB 808, WC: United States Department of Labor Office Workers' Compensation Programs Fee Schedule - NAMIC's Written Testimony OF CONCERN

Dear Representative Aaron Ling Johanson, Chair; Representative Daniel Holt, Vice-Chair; and honorable committee members:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 7, 2017, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC's written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers' compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

Unfortunately, NAMIC does not have specific information, at this time, as to what would be the likely cost-driver implication of the proposed legislation on workers' compensation insurance for employers in the State of Hawaii. However, at a visceral level, NAMIC is concerned that the proposed fee schedule could have meaningful cost implications that the state legislature should consider as part of the legislative analysis of the bill.

Additionally, NAMIC has some concerns about the statement in Section 1 of the bill that "few providers accept workers' compensation patients due to burdensome documentation and

reporting, slow approval and payment processing, and inadequate fee reimbursements.”
[Emphasis added]

Although NAMIC appreciates that some may feel like this is the case, we question the statistical support for these unfounded contentions. Workers’ compensation insurance documentation requirements, claims processing and payment timelines, and fee reimbursements are set forth in statute and have been interpreted by case law, with direct and thorough state agency regulatory oversight, so NAMIC questions the validity of the contention that there is problem and/or that the proposed use of United States Department of Labor Office Workers’ Compensation Programs Fee Schedule would have any positive impact upon the administrative aspects of the workers’ compensation system.

NAMIC also has concerns about the prudence of adopting the Office Workers’ Compensation Programs (OWCP) fee schedule as prepared by the United States Department of Labor.

Specifically, NAMIC respectfully requests that the following questions be expressly considered:

- 1) What evidence is there that adoption of this federal government fee schedule is reasonable and necessary to address the medical access needs of injured workers in Hawaii?
- 2) Has there been a detailed analysis of the underlying medical services pricing rationale that is the methodological basis for the OWCP fee schedule?
- 3) How many other states have adopted the OWCP fee schedule and what have been the price implications for workers’ compensation insurance in those states since adoption of the federal fee schedule?

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC’s written testimony.
Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region

TESTIMONY OF ALISON UEOKA

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair

Tuesday, February 7, 2017
9:00 a.m.

HB 808

Chair Johanson, Vice Chair Holt, and members of the Committee on Labor & Public Employment, my name is Alison Ueoka, President of the Hawaii Insurers Council. The 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 forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill which changes the reimbursement for providers of medical services to that of the Office Workers' Compensation Programs (OWCP) fee schedule as prepared by the United States Department of Labor. Although we are awaiting an analysis of what the OWCP fee schedule reimbursement rate is as a percentage of Medicare, we believe that this change will result in an increase in reimbursement as described in the intent of this bill. At this time, the most commonly billed CPT codes are reimbursed outside the statute's 110% of Medicare and in Schedule A of the medical fee schedule. The reimbursement rate therefore, is not at 100% of Medicare, but estimated at 135% of Medicare which we believe is approximately what healthcare reimburses their physicians. The Department of Labor and Industrial Relations has the ability to hear from specific providers and consider a higher reimbursement rate for certain CPT codes. This provision in current statute is appropriate and is more relevant than any across the board increase.

No state in the nation uses OWCP as a basis for reimbursement. In fact, according to NCCI, OWCP uses Medicare as its basis, so this change would not make the fee schedule

more current but have the opposite effect. Twenty-three states use Medicare as its reimbursement basis, as we do in Hawaii.

Furthermore, the shortage of physicians and especially those in rural areas may not be mitigated by an increase in reimbursement. There are many other factors that contribute to a physician considering a move to Hawaii from the mainland and those who practice here, but do not treat workers' compensation injuries. Some of the factors that are included in a decision to move to Hawaii from the mainland include Hawaii's high cost of living, especially housing, income tax rates, and the cost to educate children in private schools. Some factors included when a physician already in practice here may consider is the built-in push and pull in the workers' compensation system where one party may feel the injured worker is stabilized and either ready to be rated and/or is ready to return to work and the treating physician is in a position to either urge that injured worker back to work or to support their staying out of work.

An increase to the reimbursement of providers will certainly increase the cost of workers' compensation as Hawaii's claim dollar is about 50/50, with medical reimbursement slightly less than indemnity benefits. Any cost increases will reflect in the cost of workers' compensation insurance and is ultimately passed on to businesses which has a trickle-down effect. Perhaps an in-depth study of what would motivate physicians to treat workers' compensation injuries prior to any drastic law change would be more prudent. If a reimbursement increase is implemented with the purpose of increasing the treating physician pool and it is not successful, having the law sunset will be very difficult under a future threat of decreasing the pool even further.

We believe this bill may have the opposite effect of its intent and therefore if analysis of the OWCP fee schedule reflects an overall increase in medical costs from what is being reimbursed today, we ask that this bill be held.

Thank you for the opportunity to testify.

From: joanna@backinactionhawaii.com
Sent: Saturday, February 4, 2017 2:53 PM
To: LABtestimony
Subject: WC physical therapy

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, [808-221-8620](tel:808-221-8620) or Herbert Yee, [808-348-3763](tel:808-348-3763).

Thank you.

Joanna Bilancieri, DPT
Back In Action, Inc.

**Committee on Labor and Public Employment
Chair Johanson and members of the Committee**

Date: Tuesday, February 7, 2017

Time: 9:00am

Place: Conference Room 309

Bill: HB808

Position: STRONGLY SUPPORT

Aloha Chair Johanson and Members of the House LAB,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

After discussions with several physical therapists, colleagues and smaller outpatient physical therapy clinics, it is a concern of mine what will happen to workers' compensation patients in the future. They may not be receiving the services they need, due to clinics no longer accepting workers' compensation patients due to the reasons stated above. Without proper rehabilitation, there will be longer periods of time out of work and possible long term implications for the patient in returning to their prior level of function.

I am supportive of HB 808 being based on the federal Office Workers Compensation Program (OWCP) fee schedule and not on a Medicare system as the patient population is very different. I am a physical therapist and I have treated numerous workers' compensations patients in the past and want to emphasize that the rehabilitation demands are great for a workers' compensation patient. An example is a longshore man with a rotator cuff repair whose goal is to return to lifting >50lbs, climbing ladders with heavy equipment, repetitively over long work days is different from a 67-year old woman whose primary goal is to carry her 10month old grandson. A different system is necessary and should be implemented.

Your support for HB 808 is appreciated.

Thank you,

Joanne Ishikawa, PT, DPT

808-221-4001

From: Sherri <saltyseeds@gmail.com>
Sent: Monday, February 6, 2017 8:58 AM
To: LABtestimony
Subject: HB808

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.
Sherri Sur, PTA

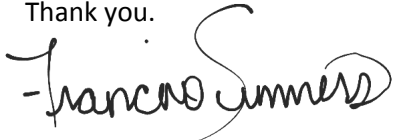
Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

A handwritten signature in black ink that reads "Francine Summers". The signature is written in a cursive, flowing style with a large initial 'F'.

Francine Summers
PT manager
Action Rehab Inc

holt1 - Joyleanne

From: Lee Poston <lposton@therapymaui.com>
Sent: Monday, February 6, 2017 8:24 AM
To: LABtestimony
Subject: Please help

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare- based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

Lee Poston PT, Dip. MDT, CSCS
Therapeutic Associates of Maui, LLC.

holt1 - Joyleanne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 12:39 PM
To: LABtestimony
Cc: mpaciliompt@gmail.com
Subject: Submitted testimony for HB808 on Feb 7, 2017 09:00AM

HB808

Submitted on: 2/6/2017

Testimony for LAB on Feb 7, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Pacilio	Individual	Support	No

Comments: I am a Physical Therapist in the County of Kauai and a constituent of Dee Morikawa. I am in support of HB 808 to move treatment for injured workers away from Medicare-based reimbursement which is generally for elderly persons, to OWCP which is for younger, work-aged persons. Care of the injured worker requires faster outcomes to return patient to work but greater amounts of documentation and coordination with other providers and insurance adjusters. Providers should be reimbursed appropriately for the services they provide to this special group.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

holt1 - Joyleanne

From: Francis, Vikki <vfrancis@Queens.Org>
Sent: Monday, February 6, 2017 12:51 PM
To: LABtestimony
Subject: HB808

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare- based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you.

February 6, 2017

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. For injured workers who live on Neighboring Islands their ability to recover from their injury is further hindered by physician shortage as well as lack of specialists such as Orthopedists or Neurologists.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Mahalo,

Brianne Childs, PT, DPT

Molokai

HB 808

LATE TESTIMONY

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LATE

LATE

Action Rehab, Inc

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you for your consideration .

Kristen Delsigne PT, DPT

Kristen Delsigne, DPT

LATE

LATE

LATE

PIA, Inc.

Insurance Services

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you for your consideration .



Byron W. Ho

President

The Twenty-Ninth Legislature
Regular Session of 2017

LATE

LATE

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair
State Capitol, Conference Room 309
Tuesday, February 7, 2017; 9:00 a.m.

LATE

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 808
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 **supports** H.B. 808, which requires the Director of the Department of Labor and Industrial Relations (DLIR) to set workers' compensation medical charges that correspond to the U.S. Department of Labor Office of Workers' Compensation Programs (OWCP) fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii, and requires the DLIR to submit a report to the Legislature prior to the 2024 Legislature.

H.B. 808 will allow the federal OWCP fee schedule to be applied in workers' compensation claims for payment of medical fees to physicians and other providers who provide treatment and services to workers injured on the job. The OWCP fee schedule is said to provide higher reimbursements to providers, thus offering them additional incentive to provide services to injured workers. Today, very few physicians are willing to treat injured workers, in part because of the low reimbursements (as compared to reimbursements under the Prepaid Health Care Act) and the burdensome paperwork. Access to physicians is especially difficult on the neighbor islands.

There does not appear to be any reason for the disparity in fees, other than an attempt to reduce premiums. However, since the fee schedules were substantially reduced more than a decade ago, employers have seen significant reductions in workers' compensation premiums. In view of the dearth of physicians willing to treat injured workers, we believe it is time to revisit the payment of fees to physicians for workers' compensation and apply the OWCP fee schedule, which has been successful in incentivizing physicians and getting workers back to work sooner.

H.B. 808 sets a repeal date in 2024, which will allow the OWCP fee schedule to be implemented and evaluated for its effectiveness in increasing access to physicians as well as reducing costs for DLIR, which otherwise would need to review thousands of fee codes to determine appropriate reimbursement. We are confident that the report presented to the 2024 Legislature will provide sufficient evidence to justify continuation of the OWCP fee schedules.

The purpose of workers' compensation is to allow workers injured on the job to receive needed medical treatment in a timely manner in order for them to return to gainful employment as quickly as possible. When workers are unable to find physicians willing to treat them, the process is delayed, the worker's condition deteriorates, and the insurance company is required to pay more in temporary total disability benefits. Ensuring prompt, fair payments to physicians is crucial to helping workers recover from injury and return to work. That is, after all, the intent of the law.

The ILWU urges passage of H.B. 808. Thank you for the opportunity to share our views and concerns on this important measure.



LATE

LATE

LATE

To: The Honorable Aaron Ling Johanson, Chair
The Honorable Daniel Holt, Vice Chair
House Committee on Labor and Public Employment

From: Mark Sektnan, Vice President

Re: **HB 808 - Relating to Workers' Compensation**
PCI Position: Concerns

Date: Tuesday, February 7, 2017
9:00 AM; Conference Room 309

Aloha Chair Johanson, Vice Chair Holt and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) has **concerns** regarding **HB 808** which would change the workers' compensation fee schedule in Hawaii without appropriate analysis to ensure the potential impact of the change is fully understood. In Hawaii, PCI member companies write approximately 42.3 percent of all property casualty insurance written in Hawaii. PCI member companies write 44.7 percent of all personal automobile insurance, 65.3 percent of all commercial automobile insurance and 76.5 percent of the workers' compensation insurance in Hawaii.

HB 808 requires the Director of the Department of Labor and Industrial Relations to set workers' compensation medical charges that correspond to the United States Department of Labor Office of Workers' Compensation Programs fee schedule instead of the Medicare Resource Based Relative Value Scale applicable to Hawaii. The bill also requires the department to submit a report to the legislature on injured worker's access to treatment.

A change in the fee schedule from the Medicare Resource Based Relative Value Scale (RBRVS) to the Department of Labor's fee schedule is in sharp contrast to the direction taken by other states. According to a report titled "WCRI Medical Price Index for Workers' Compensation, Eighth Edition" published by the Workers' Compensation Research Institute in November, 2016 more than 30 states moved towards using a RBRVS based fee schedule. The study also highlights several examples of the impact of a change in fee schedules. When Kentucky moved away from the RBRVS based fee schedule, the overall prices paid for professional services rose by 19 percent from 2013 to 2015. There are many other examples of the impact of a change in fee schedule contained in the report.

PCI recommends the state reach out to the National Council on Compensation Insurance (NCCI) which gathers data, analyzes industry trends, and prepares objective insurance rate and loss cost recommendations for a variety of states to review and comment on the possible implications of

the change in fee schedule to ensure there are no unintended consequences. The bill does contain language requiring a study of the impact of the change in fee schedule on workers' compensation claimants' access to appropriate treatment to be conducted after the change in the fee schedule. PCI recommends a study be conducted *prior* to changing the fee schedule. We suggest the study also include whether the new fee schedule results in higher workers' compensation costs for Hawaii's employers or results in unintended disruption of existing provider relationships.

PCI asks the committee to defer this measure until the full impact of changing the workers' compensation fee schedule can be analyzed appropriately and the impact fully understood by everyone.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
650 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

February 7, 2017

The Honorable Aaron Ling Johanson, Chair
The Honorable Daniel Holt, Vice Chair
and Members of the Committee
on Labor & Public Employment
House of Representatives
State Capitol, Room 309
415 South Beretania Street
Honolulu, Hawaii 96813

LATE

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LATE

Dear Chair Johanson, Vice Chair Holt, and Members of the Committee:

**SUBJECT: House Bill No. 808
Relating to Workers' Compensation**

H.B. 808 seeks to adopt the U.S. Department of Labor, Office of Workers' Compensation Programs' (OWCP) fee schedule as the applicable charges for workers' compensation medical services in Hawaii rather than the Hawaii Medicare Resource Based Relative Value Scale which is utilized at the present time. While the City and County of Honolulu supports the intent of the bill, it must oppose H.B. 808 as the measure will significantly increase various medical charges under workers' compensation without a corresponding increase in the availability of health care providers for Hawaii's workers' compensation patients.

The measure's findings note various benefits the OWCP purportedly provides to federal workers such as making timely, appropriate and accurate decisions on claims. However, H.B. 808 fails to take into account the significant differences between Hawaii's workers' compensation law and the OWCP.

First, the federal program limits medical treatment to services, appliances and supplies that in the opinion of the OWCP, are likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation. Second, the federal program fully authorizes OWCP to ask physicians besides the attending physician to evaluate an employee and/or file. These include district physicians who are on staff or under contract to respond to questions raised by staff, medical specialists who are selected and paid by OWCP, and referee physicians

February 7, 2017

Page 2

selected and paid for by OWCP in cases where there is a conflict of medical opinions in the file.

The OWCP also enables the agency to exclude medical providers from participation in the Federal employees' compensation program if the provider is convicted of fraud, fails to submit full and accurate medical reports or fails to respond to requests for medical information, or furnishes treatment substantially beyond the employee's needs or which fails to meet professionally recognized standards. Finally, the action of the OWCP in allowing or denying a payment under the Federal Employees Compensation Act is final and conclusive for all purposes with respect to questions of law and fact. These are all facets of the federal employee compensation program which are absent or, in the case of medical examiners, greatly curtailed under Hawaii's workers' compensation law. Utilization of the alleged benefits of the OWCP to justify the adoption of its fee schedule for Hawaii's workers' compensation program without a discussion or acknowledgment of the substantial differences between the two is specious.

More importantly, the OWCP fee schedule does not provide any significant monetary incentive for a physician who currently does not take workers' compensation cases to accept a claimant as his or her treating physician. Office Visit Code 99201 which covers new patients is reimbursed at \$63.73 under Hawaii's medical fee schedule. The same visit would be reimbursed at \$64.59 under OWCP's 2017 fee schedule. Office Visit Code 99212, which would cover the same type of office visit for an established patient, is reimbursed at \$60.37 under Hawaii's medical fee schedule and at \$64.59 by OWCP's fee schedule.

It is evident by the foregoing that adoption of the OWCP fee schedule will not increase the access to care for Hawaii's workers' compensation claimants. At the same time, utilization of the fee schedule will lead to a significant increase in the number of bill disputes for medical care due to OWCP's fee schedule's lack of specificity in a significant number of areas. The City and County of Honolulu therefore respectfully requests that the measure be held.

Thank you for the opportunity to testify.

Sincerely,



Carolee C. Kubo
Director



LATE

LATE

February 7, 2017

LATE

To: The Honorable Aaron Ling Johanson, Chair
The Honorable Daniel Holt, Vice-Chair
And Members of the Senate Committee on Labor and Public Employment

Date: February 7, 2017

Time: 9:00 AM

Place: Conference Room 309

Re: HB 808 Relating to Workers' Compensation Fee Schedule

Chair Johanson, Vice-Chair Holt, and Members of the Committee:

My name is Kris Kadzielawa and I am the Managing Director for Solera Integrated Medical Solutions, Hawaii's largest provider of payment integrity services to workers' compensation and automobile insurance programs.

We are strongly opposed to this measure.

HB 808 has a very noble goals of improving access to medical care for Hawaii's injured workers, however, in my professional opinion, I do not see how it would accomplish this goal by changing the reimbursement basis to the Federal OWCP schedule and away from the Medicare Fee Schedule.

If the goal of the legislature is to increase the payment amounts to healthcare providers treating injured workers – I would recommend you strategically raise the reimbursement rate under the current fee schedule rather than changing to a different reimbursement system. For example, if more primary treating physicians are needed – raise the fees for 10 main physician office visit codes. These can be easily adjusted by the Director and included in the Supplemental Fee Schedule (SFS) as per HRS 386-21.

Interestingly, the last two such SFS proposals (2014 and 2016) from the Department recommended REDUCING Office Visit payments by an average of about 10%, and dramatically increasing payments for Radiology and Labs by 72% and 46% respectively. Fortunately, neither of these proposals was adopted by the Director.

It's important to understand that only approximately 30% of WC medical payments are at Medicare + 10%. 40% currently fall under the Supplemental Fee Schedule and the remaining 30% are not subject to any fee schedule and primarily reflect fees billed by hospitals at their own rates.

In my review of the current OWCP fee schedule, I found it to be 2 years behind Medicare and still actually based on 2015 Medicare. This would be problematic for providers because many of the billing codes have been changed, discontinued, re-valued, or otherwise modified since then – yet OWCP has not kept up. For example, in 2016 the Medicare FS for a TENS unit (code E0730) was \$385.89. In 2017 Medicare reduced the TENS unit fee schedule to \$72.11. **OWCP is still paying \$515.67 for a TENS unit.** This is a good example of OWCP not keeping up with current prices and employers would need to pay 7 times higher for a TENS unit, which does not have any effect on physician retention.

Medicare on the other hand is constantly kept current with input from professional organizations representing every type of medical provider specialty. This is also the reason why group health payors use the Medicare fee schedule as the basis for their reimbursement - because Medicare not only publishes the fee schedule, but also publishes (frequently and in great detail) the coding, reimbursement, and documentation guidelines for each code and code pairs. The fee schedule is only the ingredients, the guidelines are the recipe. OWCP does not publish its coding, reimbursement and documentation guidelines. Absent Medicare as the basis for our fee schedule, the Department of Labor would then have to issue their own guidelines as OWCP does not publish theirs. Without DCD's guidelines, there would be many more bill disputes or overpayments.

The OWCP fee schedule uses the same formula to calculate fees as Medicare does. The RVUs are set for each billing code and the GPCI is set for each US zip code and expense type. The only difference is the conversion factor.

Payment = [(RVU work x GPCI work) + (RVU expense x GPCI expense) + (RVU malpractice insurance cost x GPCI malpractice insurance cost)] x conversion factor

RVU = Relative Value Units

GPCI = Geographic Pricing Cost Index

WC claimants on average are younger and healthier than Medicare patients who have chronic conditions in addition to the injuries sustained. By definition, Medicare patients are more difficult and expensive to treat than WC patients due to their co-morbidities. Medicare is the standard among all other payors, particularly Group Health (which pays for treatments to the young and old).


In talking with my staff about this proposal, I discovered that 2 of our auditors who previously worked at physicians' offices had first-hand experience with OWCP in that it did not process payments timely, there was never a customer service representative that could answer questions on coding and documentation, and the provider would end up writing off most of their charges. A few of their client physicians ended up not taking any OWCP patients at all.

To our knowledge, no other state uses the OWCP as the basis for their WC Fee Schedule. They prefer the Medicare fee schedule as the basis for their reimbursement because of their published guidelines – just like group health payors do.

In summary, I do not believe that SB 413 can accomplish its stated goals. Instead it will take us backward to an out of date, poorly documented system dependent on federal oversight. I believe we can be much more nimble and effective with making smart changes in our current fee schedule to properly and accurately reward the desired outcomes.

Thank you for the opportunity to testify on this measure.

Mahalo,



Kris Kadzielawa

Managing Director

Solera Integrated Medical Solutions

841 Bishop Street, Suite 2250

Honolulu, Hawaii 96813

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Hawaiian Rehabilitation Services, Inc.

CREDIT UNION PROFESSIONAL PLAZA 75-165 Hualalai Road • Kailua-Kona, HI 96740
Phone: 808-329-0591 • Facsimile: 808-329-2066 • Web: <http://www.HawaiianRehab.com>

Feb 6, 2017

Re: HB808

Attention Chair Johanson and Member of the House LAB Committee

Please support HB808. The reimbursement level for Hawaii's Workers Compensation is based on Medicare +10% level whereby the Federal level is much higher. A Legislative Study performed many year ago recommended a level that is at least Medicare +35%. The problem of being tied to Medicare is that the rates can change suddenly and take into account a different demographic patient population. Injured workers cases require more coordination of services, return to work levels of performance, and higher degree of function. Because of the amount of coordination of services, eg paperwork, physicians in Hawaii are reluctant to participate with WC injuries, leaving our Hawaii workers without coverage, immediate care and poorer return to work results. Increasing the WC medical fee schedule to reflect the federal level would encourage more providers to participate, thereby increasing the availability to services. It also would assist providers in covering their costs to provide high level of services.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you,

Jean Thompson, Administrator
Hawaiian Rehabilitation Services, Inc.



PHYSICAL THERAPY & WELLNESS
CENTER OF MAUI, LLC

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430 Kele St., Suite 401
Kahului, HI 96732
Telephone: (808) 871-0900
Fax: (808) 871-9119

LATE

February 6, 2017

Aloha Chair Johanson and Members of the House LAB Committee,

Access to rehabilitative care for the injured worker is a problem because many physicians do not accept workers' compensation patients. Few providers will accept workers' compensation patients due to burdensome documentation, slow approval and payment processing and inadequate fee reimbursements. This is made worse on Neighbor Islands because of the physician shortage.

HB 808 moves treatment for injured workers away from a Medicare-based reimbursement, which is generally for elderly persons that need chronic disease management. HB 808 proposes that treatment for injured workers correspond with the federal Office Workers Compensation Program (OWCP) fee schedule. The OWCP is specific to the treatment of injured workers.

Your support for HB 808 is appreciated. More information can be received from Derrick Ishihara, 808-221-8620 or Herbert Yee, 808-348-3763.

Thank you,

Dawn Jernail, RPT



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Thank you,



Jewan Jernail, RPT

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Thank you.



Daniel Rick PT

Vice President

Club Rehab Inc

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Action Rehab, Inc

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Thank you for your consideration .



Cindy Oania, DPT

Action Rehab, Inc

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Thank you for your consideration .

Handwritten signature of Kristen Delsigne in cursive, followed by the text "PT, DPT".

Kristen Delsigne, DPT

P.O. Box 11973, Honolulu, HI 96828 Phone: 597-1555