



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dllr.director@hawaii.gov

March 21, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Tuesday, March 21, 2017
Time: 9:35 a.m.
Place: Conference Room 016, State Capitol

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

Re: S.C.R. No. 109 Requesting the Department of Labor and Industrial Relations to Prepare and Submit a Proposal that Delineates How It Will Increase the Reimbursement Rate to Providers of Service for Workers' Compensation Claimants

I. OVERVIEW OF PROPOSED SENATE CONCURRENT RESOLUTION

SCR 109 requests that the Department prepare a proposal that delineates how DLIR will increase the reimbursement rate to providers of service for workers' compensation claimants to include the following items.

- (1) Federally accepted factors to estimate the cost of practice expenses and the average cost of the work itself.
- (2) Recognition of geographic differences in insurance rates.
- (3) Analysis of increased fees and medical work force participation.

The Department supports the intent of the resolution but suggests it is not necessary as the Workers' Compensation Law already provides a mechanism and DLIR is currently in the process of updating allowable medical service and supply charges.

II. CURRENT LAW

Section 386-21(c), Hawaii Revised Statutes, 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 to meet the statutory intent of §386-21 that states, "The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees..

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 SENATE CONCURRENT RESOLUTION

The Department is concerned with the current shortage of Hawaii physicians, including those who accept workers' compensation cases. The Department supports the intent of the resolution to increase the reimbursement rates with the hope that it will encourage more physicians to treat workers' compensation claimants. In addition, DLIR introduced a measure for which a companion is still progressing through the legislative process that expands the categories of health care providers to treat workers' compensation cases to include Advanced Practice Registered Nurses (APRNs).

The Department is currently surveying Prepaid Health Care providers pursuant to the statute¹ and will be using the data to update the Workers' Compensation Supplemental Medical Fee Schedule, Exhibit A, effective January 1, 2018. Our goal is to help ensure providers of service are compensated appropriately and that medical care and services are available for injured workers.

FOOTNOTE

¹ (2) A statistically valid survey by the director of prevalent charges for fees for services actually received by providers of health care services or based upon the information provided to the director by the appropriate state agency having access to prevalent charges for medical fee information.

Note: there is no state agency that has access to prevalent charges.



HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

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

SCR109, Requesting the Department of Labor and Industrial Relations to Prepare and Submit A Proposal that Delineates How It Will Increase the Reimbursement Rate to Providers of Service for Workers Compensation Claimants

**Sen JDL Committee Hearing
Tuesday, March 21, 2017 – 9:35 am
Room 016
Position: Strong Support**

Chair Keith-Agaran and Members of the Sen JDL 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 movement specialists and part of the spectrum of care for Hawaii. We 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 the continued discussion about improving access to care for injured workers, particularly on the Neighbor Islands where there is a shortage of physicians. Delays in care often exacerbate the injury, demoralize the injured worker and may mean a disruption of income to maintain living expenses.

We are pleased with DLIR's testimony (HB808/SB413) that it "...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." Rates and fees that are adequate for standards of services and care intended for injured employees will facilitate access to physicians who may be more willing to accept workers' compensation patients and more appropriately compensate rehabilitative providers of care.

The existing law (HRS Section 386-21) 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. DLIR subsequently withdrew the proposed elimination of Exhibit A schedule and return to Medicare plus 10% on December 30, 2016. Had DLIR prevailed, the change would have been effective January 1, 2017. It should be noted that Hawaii providers pay back a 4% (4.5% on Oahu) GET. So in reality, workers' compensation providers receive Medicare plus 6% (or 5.5%). Most if not all other states do not pay excise or sales tax on medical care or food.

SCR109 seeks to address transparency about how DLIR will develop its proposed plan to increase reimbursement rates for workers' compensation providers. It requests that DLIR include such factors as geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of the treatment to injured workers. Hawaii ranks near the bottom (37 out of 43 states – the other 7 states do not use Medicare based fee schedules) for WC fees paid to providers, but yet we are one of the most expensive states for cost of living and practice expense.

Your support of SCR109 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.


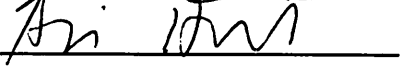


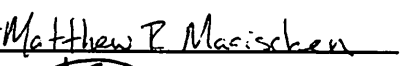

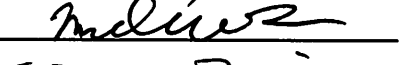

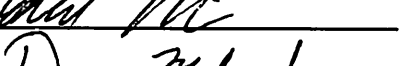
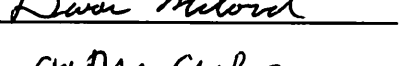
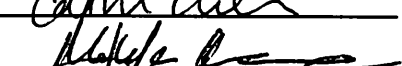

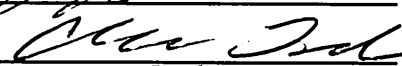
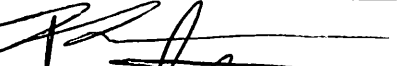


HCR167/SCR109, Requesting The DLIR To Prepare And Submit A Proposal That Delineates How It Will Increase The Reimbursement Rate To Providers Of Service For Workers' Compensation Claimants.

We, the undersigned, strongly support HCR167/SCR109 and the Legislature's request to DLIR to submit a proposal on how it will increase the reimbursement rate to providers of service for WC claimants. This is one step towards increasing the injured workers' access to medical care and to receive timely care for appropriate return to work. It is particularly difficult for Neighbor Island injured workers to find a physician willing to take on their WC claim because of the decreased reimbursements and increased administrative requirements. Delays in care often exacerbate the injury, demoralize the injured worker and may disrupt income to maintain living expenses.

Secondly, it calls for transparency on the part of DLIR. Historically, DLIR will announce the changes in fee schedule at the end of the year for a January 1 effective date. Many providers are small business owners and need advance notice of fee schedule changes for planning purposes and for determination of needed cash reserves.

We, the undersigned, appreciate the Legislature's request to DLIR to factor in geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of treatment to injured workers, and the analysis of increased fees and medical work force participation.

Your support of HCR167/SCR109 is urged. Thank you.

Name (Clearly Print)	Signature	Phone Number	Email Address
<u>THAISA NAKANO</u>		<u>(808) 381-8947</u>	<u>NAKANO T 9 @ GMAIL . COM</u>
<u>April Hubbard</u>		<u>(760) 334-3354</u>	<u>aprilhubbard14@gmail.com</u>
<u>Andrea Ferreb2</u>		<u>808-381-8947</u>	<u>afereb2@gmail.com</u>
<u>Jennifer RAAMS</u>		<u>808-3438586</u>	<u>jennifer@jacorehab.com</u>
<u>Matthew P. Marischen</u>		<u>937-509-5446</u>	<u>matthew.marischen</u>
<u>Jaco VAN PELDER</u>		<u>808-343-8585</u>	<u>Jaco@JacoRehab.com</u>
<u>Melanie C Bean</u>		<u>808 217 7330</u>	<u>melaniecbean@gmail.com</u>
<u>Jolene Shannon O'Neill</u>		<u>509-860-2462</u>	<u>jshannononeill@gmail.com</u>
<u>Edward Nhieu</u>		<u>808-386-3788</u>	<u>ed.nhieu@gmail.com</u>
<u>Devon McCord</u>		<u>815-342-0826</u>	<u>devonmccord88@gmail.com</u>
<u>Cat Culver</u>		<u>(808) 226 9999</u>	<u>cat.cullison@gmail.com</u>
<u>Motoki Nakamura</u>		<u>(858) 342-7312</u>	<u>m.nakamura510@gmail.com</u>
<u>Umi Okada</u>		<u>808 728 4448</u>	<u>mokada902@gmail.com</u>
<u>CHERIL TAMASHIRO</u>		<u>808 364-3779</u>	<u>amtamashiro@yahoo.com</u>
<u>Ross Lum</u>		<u>808 753-5609</u>	<u>ross.k.lum@gmail.com</u>
<u>Jonathan Chow</u>		<u>510-325-1621</u>	<u>jchow1406@gmail.com</u>

HCR167/SCR109, Requesting The DLIR To Prepare And Submit A Proposal That Delineates How It Will Increase The Reimbursement Rate To Providers Of Service For Workers' Compensation Claimants.

We, the undersigned, strongly support HCR167/SCR109 and the Legislature's request to DLIR to submit a proposal on how it will increase the reimbursement rate to providers of service for WC claimants. This is one step towards increasing the injured workers' access to medical care and to receive timely care for appropriate return to work. It is particularly difficult for Neighbor Island injured workers to find a physician willing to take on their WC claim because of the decreased reimbursements and increased administrative requirements. Delays in care often exacerbate the injury, demoralize the injured worker and may disrupt income to maintain living expenses.

Secondly, it calls for transparency on the part of DLIR. Historically, DLIR will announce the changes in fee schedule at the end of the year for a January 1 effective date. Many providers are small business owners and need advance notice of fee schedule changes for planning purposes and for determination of needed cash reserves.

We, the undersigned, appreciate the Legislature's request to DLIR to factor in geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of treatment to injured workers, and the analysis of increased fees and medical work force participation.

Your support of HCR167/SCR109 is urged. Thank you.

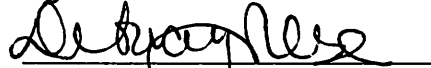
Name (Clearly Print)

Signature

Phone Number

Email Address

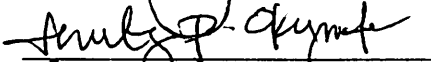
Deborah J. Reese



808-291-3489

debi@reboundhawaii.com


Jenelyn Okumoto



674-9998

jenelyn@reboundhawaii.com


Beata Triplett



~~674~~ 674-9998

beata@reboundhawaii.com

Justin Ledbetter



334-740-0323

justin.r.ledbetter@gmail.com






HCR167/SCR109, Requesting The DLIR To Prepare And Submit A Proposal That Delineates How It Will Increase The Reimbursement Rate To Providers Of Service For Workers' Compensation Claimants.

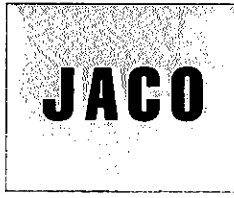
We, the undersigned, strongly support HCR167/SCR109 and the Legislature's request to DLIR to submit a proposal on how it will increase the reimbursement rate to providers of service for WC claimants. This is one step towards increasing the injured workers' access to medical care and to receive timely care for appropriate return to work. It is particularly difficult for Neighbor Island injured workers to find a physician willing to take on their WC claim because of the decreased reimbursements and increased administrative requirements. Delays in care often exacerbate the injury, demoralize the injured worker and may disrupt income to maintain living expenses.

Secondly, it calls for transparency on the part of DLIR. Historically, DLIR will announce the changes in fee schedule at the end of the year for a January 1 effective date. Many providers are small business owners and need advance notice of fee schedule changes for planning purposes and for determination of needed cash reserves.

We, the undersigned, appreciate the Legislature's request to DLIR to factor in geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of treatment to injured workers, and the analysis of increased fees and medical work force participation.

Your support of HCR167/SCR109 is urged. Thank you.

Name (Clearly Print)	Signature	Phone Number	Email Address
Miwa Matsumoto		(404) 717 6993	pt.m.matsumoto@gmail.com
GIAN VUCINA		(612) 227-3169	gian@jacorehab.com
Bennett Zazzera		(415) 309-3372	Ben@jacorehab.com
Seung Lee		(508) 234-9703	SeungLeePT@ymchod.com
Amanda Withko		(858) 472-1750	Amanda.Withko@gmail.com



EXCELLENCE IN MOTION

SCR109, Requesting The DLIR To Prepare and Submit a Proposal That Delineates How It Will Increase The Reimbursement Rate To Providers Of Service For Workers' Compensation Claimants.

Chair Keith-Agaran and Members of the Senate JDL Committee:

Thank you for introducing and hearing SCR 109.

It is encouraging to hear that DLIR favors an increase and is considering other alternatives to the current fee schedule. I have not supported what is in the law, Medicare plus 10% or authorizing the Director discretion to create or abolish the supplemental Exhibit A fee schedule.

First and foremost, this may be a substantial step toward increasing access to medical care for the injured worker and appropriate return to work. Many people on the Neighbor Islands find it almost impossible to find a physician willing to take on their WC claim because of decreased reimbursements and increased administrative requirements.


Delays in care often exacerbate the injury, demoralize the injured worker and may mean a disruption of income to maintain living expenses.

Hawaii ranks near the bottom (37 out of 43 states - the other 7 states do not use Medicare based fee schedules) for WC fees paid to providers, but yet we are one of the most expensive states for cost of living and practice expense. I especially appreciate that DLIR's proposal factor in geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of the treatment to injured workers.

Secondly, SCR109 calls for transparency on the part of DLIR. Historically, providers must wait until the end of the year to see what the January 1 effective rate structure will be. This is no way to run a business. Many providers are small business owners and need advance notice of fee schedule changes for planning purposes, and for determination of needed cash reserves.

Please feel free to contact at (808) 381-8947 if there are any questions.

Thank you,


_____, PT
Jaco Van Delden
Owner JACO Rehab Honolulu

SCR109, Requesting The DLIR To Prepare and Submit a Proposal That Delineates How It Will Increase The Reimbursement Rate To Providers Of Service For Workers' Compensation Claimants.

Chair Keith-Agaran and Members of the Senate JDL Committee:

Thank you for introducing and hearing SCR 109.

It is encouraging to hear that DLIR favors an increase and is considering other alternatives to the current fee schedule. I have not supported what is in the law, Medicare plus 10% or authorizing the Director discretion to create or abolish the supplemental Exhibit A fee schedule.

First and foremost, this may be a substantial step toward increasing access to medical care for the injured worker and appropriate return to work. Many people on the Neighbor Islands find it almost impossible to find a physician willing to take on their WC claim because of decreased reimbursements and increased administrative requirements.

Delays in care often exacerbate the injury, demoralize the injured worker and may mean a disruption of income to maintain living expenses.

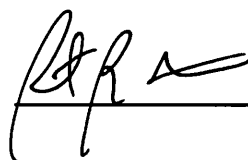
Hawaii ranks near the bottom (37 out of 43 states - the other 7 states do not use Medicare based fee schedules) for WC fees paid to providers, but yet we are one of the most expensive states for cost of living and practice expense. I especially appreciate that DLIR's proposal factor in geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of the treatment to injured workers.

Secondly, SCR109 calls for transparency on the part of DLIR. Historically, providers must wait until the end of the year to see what the January 1 effective rate structure will be. This is no way to run a business. Many providers are small business owners and need advance notice of fee schedule changes for planning purposes, and for determination of needed cash reserves.

Please feel free to contact at

if there are any questions.

Thank you,

 _____, PT, *MA*

EXCELLENCE IN MOTION

SCR109, Requesting The DLIR To Prepare and Submit a Proposal That Delineates How It Will Increase The Reimbursement Rate To Providers Of Service For Workers' Compensation Claimants.

Chair Keith-Agaran and Members of the Senate JDL Committee:

Thank you for introducing and hearing SCR 109.

It is encouraging to hear that DLIR favors an increase and is considering other alternatives to the current fee schedule. I have not supported what is in the law, Medicare plus 10% or authorizing the Director discretion to create or abolish the supplemental Exhibit A fee schedule.

First and foremost, this may be a substantial step toward increasing access to medical care for the injured worker and appropriate return to work. Many people on the Neighbor Islands find it almost impossible to find a physician willing to take on their WC claim because of decreased reimbursements and increased administrative requirements.

Delays in care often exacerbate the injury, demoralize the injured worker and may mean a disruption of income to maintain living expenses.

Hawaii ranks near the bottom (37 out of 43 states - the other 7 states do not use Medicare based fee schedules) for WC fees paid to providers, but yet we are one of the most expensive states for cost of living and practice expense. I especially appreciate that DLIR's proposal factor in geographic differences in insurance rates, federally accepted factors to estimate the cost of practice expenses and the average cost of the treatment to injured workers.

Secondly, SCR109 calls for transparency on the part of DLIR. Historically, providers must wait until the end of the year to see what the January 1 effective rate structure will be. This is no way to run a business. Many providers are small business owners and need advance notice of fee schedule changes for planning purposes, and for determination of needed cash reserves.

Please feel free to contact at 808-381-8947 if there are any questions.

Thank you,

 _____, PT

The Twenty-Ninth Legislature
Regular Session of 2017

THE STATE SENATE

Committee on Judiciary and Labor

Senator Gilbert S.C. Keith-Agaran, Chair

Senator Karl Rhoads, Vice Chair

State Capitol, Conference Room 016

Tuesday, March 21, 2017; 9:35 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON SCR 109
REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS FOR A REPORT**

The ILWU Local 142 supports SCR 109, which requests the Department of Labor and Industrial Relations to prepare and submit a proposal that delineates how it will increase the reimbursement rate to providers of service for workers' compensation claimants.

Section 386-21(a) HRS states "Immediately after a work injury sustained by an employee and so long as reasonably needed the employer shall furnish to the employee all medical care, services, and supplies as the nature of the injury requires." Section 386-21(c) HRS states in relevant part "The rates of fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees."

This statutory language clearly reflects an intent to provide medical treatment "immediately" and to establish a fee structure that would "ensure at all times the standard of services and care intended by this chapter". This clearly means a fee structure that will provide an incentive rather than a dis-incentive so that more providers are available and willing to provide their services "as the nature of the injury requires". This also means increasing the reimbursement rate, rather than decreasing the reimbursement rate which would create an economic dis-incentive.

It is a plain fact that there is currently a shortage of doctors in Hawaii. It is equally clear that the shortage about 600 doctors today, will get worse increasing to about 800, by 2020, before it gets better.

This has already had impact on the availability of medical providers on the neighbor islands. From this year, Kauai no longer has a psychologist or a psychiatrist who is willing to provide medical care to an employee with an industrial injury. This problem will only increase, both on the neighbor islands and in other rural and underserved areas in our state. This underscores the importance of having as many professional medical providers to help serve those who get injured at work.

The ILWU Local 142 urges passage of SCR 9. Thank you very much for the opportunity to share our views on this matter.

TESTIMONY
THE LIBERTARIAN PARTY OF HAWAII
c/o 1658 Liholiho St #205
Honolulu, HI 96822

March 19, 2017

RE: SCR 109 to be heard Tuesday March 21, in Room 016 at 9:30 AM

To the members of the Senate Committee on Judiciary and Labor

Dear Sirs:

We **strongly oppose** this resolution that aims to further enshrine the role of government unions at the expense of the general public. National, State, and local governments are running deficits and debts on the behalf of lavishing financial benefits on a small group of people as a reward for their votes for the Democratic Party. This is a sellout of the public interest that will ultimately lead to bankruptcies and defaults.

Signed:



Tracy Ryan, Chair