



Testimony to the
Senate Committee on Ways and Means
Friday, February 23, 2018
10:30 a.m.
State Capitol - Conference Room 211

LATE

RE: SB 2364 RELATING TO WORKERS' COMPENSATION

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

On behalf of the Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”), we are writing in opposition to SB 2364 SD1, relating to workers’ compensation. This bill prohibits employer disputes of workers' compensation claims without reasonable cause or while the claim is pending investigation. We believe that this bill as currently written will create barriers to appropriately resolving claims and will not accomplish the goal of promoting justice, fairness and transparency.

Human resource management professionals are responsible for the alignment of employees and employers to achieve organizational goals. HR professionals seek to balance the interests of employers and employees with the understanding that the success of each is mutually dependent. We believe that this bill will alter the balance of employer and employee interests in the resolution of claims in a manner that does not advance the overall public purpose of ensuring workplace safety. We respectfully ask that you do not advance this bill.

SHRM Hawaii represents more than 800 human resource professionals in the State of Hawaii. We look forward to contributing positively to the development of sound public policy and continuing to serve as a resource to the legislature on matters related to labor and employment laws.

Mahalo for the opportunity to testify.





HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376
www.hawaiimedicalassociation.org

TO:
COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

LATE

Date: Thursday, February 22, 2018
Time: 10:10 a.m.
Place: State Capitol, Conference Room 211

FROM: Hawaii Medical Association
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

SUPPORT FOR SENATE BILL 2364 SD1

As Section 1 of SB 2364 states, Hawaii's existing workers' compensation has been plagued by delays and denials, and in many of those cases, insurers seem to automatically deny the claim "pending investigation". These investigations may include reviewing reports from an independent medical examiner, interviewing other employees, looking at videotapes, or combing through old medical records for evidence that the workplace injury was related to a pre-existing condition. While the workers' comp insurer considers, for months and sometimes years, the patient is at times unable to use private insurance or get money for which to live. Although there is no statute, administrative rule or judicial ruling permitting this practice of "denying pending investigation," some workers' comp insurers continue to abuse this practice. Therefore, the intent of this bill, is to have an injured workers' medical treatment costs paid for by their private insurance, if the workers' comp insurer "denies pending investigation". This will allow the patient to receive the medical care they need so they can return to work without any further delay. Currently, when a patient's claim is "denied pending investigation", neither workers' comp or private insurance will pay for their medical treatment.

Thank you for your consideration.

HMA OFFICERS

President – William Wong, Jr., MD President-Elect – Jerry Van Meter, MD Secretary – Thomas Kosasa, MD
Immediate Past President – Bernard Robinson, MD Treasurer – Elizabeth A. Ignacio, MD
Executive Director – Christopher Flanders, DO

SB-2364-SD-1

Submitted on: 2/22/2018 2:39:06 PM

Testimony for WAM on 2/23/2018 10:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Andria Pakele	Individual	Support	No

Comments:

Dear Committee on Ways and Means,

Section 1 of SB 2364 states, Hawaii's existing workers' compensation has been plagued by delays and denials, and in many of those cases, insurers seem to automatically deny the claim "pending investigation". These investigations may include reviewing reports from an independent medical examiner, interviewing other employees, looking at videotapes, or combing through old medical records for evidence that the workplace injury was related to a pre-existing condition. While the workers' comp insurer considers, for months and sometimes years, the patient is at times unable to use private insurance or get money for which to live. Although there is no statute, administrative rule or judicial ruling permitting this practice of "denying pending investigation," some workers' comp insurers continue to abuse this practice. Therefore, the intent of this bill, is to have an injured workers' medical treatment costs paid for by their private insurance, if the workers' comp insurer "denies pending investigation". This will allow the patient to receive the medical care they need so they can return to work without any further delay. Currently, when a patient's claim is "denied pending investigation", neither workers' comp or private insurance will pay for their medical treatment.

Thank you for your consideration,
Andria Pakele

LATE

SB-2364-SD-1

Submitted on: 2/22/2018 8:04:54 PM

Testimony for WAM on 2/23/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy wilson	Individual	Support	No

Comments:

Strong Support for SB2364

- Injured worker or injured patient; regardless of it being a work injury or not, injured worker/patient needs medical treatment.
- Insurance policies are paid to cover these costs. The insurance companies should pay for the medical treatments so that patients can get back to work and back to their lives.
- Most patients don't have the money to cover full medical treatment costs out of pocket, nor should they have to when they have insurance coverage. That is the reason they pay for medical insurance.
- Hawaii law doesn't recognize "Denied Pending Investigation", yet work comp insurance companies (or payors) use this term frequently. The term should be treated as "Denied", because technically, that is what the work comp payor is doing, denying payment for treatment.
- When an injured workers' claim is "denied pending investigation", there is no sense of urgency to investigate the claim, therefore some patients wait for very long lengths of time. This is not right, nor should it be allowed to continue.

I respectfully ask the **Senate Committee of Ways and Means** to **please pass SB 2364**, so that injured worker patients' claims that are made to be "denied pending investigation", will be able to receive medical treatment paid for by their private insurance company.

Thank you,

Cathy Wilson

Scott J Miscovich, MD
46-001 Kamehameha Hwy #109
Kaneohe, HI 96744
(808) 247-7596

To: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means



Date: Thursday, February 22, 2018

Time: 10:10 a.m.

Place: State Capitol, Conference Room 211

SUPPORT FOR SENATE BILL 2364 SD1

Scott Miscovich, MD submits the following testimony in support of Senate Bill 2364 SD1.

SB2364 establishes that employer shall pay all workers compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a pending investigation. It codifies into statute Hawaii Administrative Rules 12-15-94 (Payment by Employer) and amends and clarifies it as follows:

- (a) Requires that the employer shall not controvert a claim for services:
 - (1) Without reasonable cause; or
 - (2) While the claim is pending investigation.

- (b) Requires that the employer shall notify the provider within thirty calendar days, instead of sixty, should the employer controvert the claim for services.

- (c) Increases the maximum service fee from \$500 to \$1,000 for which the director may assess against a party who fails to negotiate in good faith.

- (d) Provides that denial of payment without reasonable cause shall be considered a failure to negotiate in good faith.

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

Although there is no statute, administrative rule or judicial ruling permitting this practice of "denying pending investigation," insurers continue to abuse this practice. Therefore, the intent of this bill, to limit employers' use of denying a claim pending investigation and impose fines and penalties for those employers who continue doing so without reasonable cause, is laudable.

Thank you for your consideration.

Scott J Miscovich, MD



To: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means

LATE

Date: Thursday, February 22, 2018
Time: 10:10 a.m.
Place: State Capitol, Conference Room 211

STRONG SUPPORT FOR SENATE BILL 2364 SD1

As Founder of Work Injury Medical Association of Hawaii representing the providers treating injured workers in our state, we strongly support SB 2364 SD 1. This much needed and long overdue advocacy and legislation recognizing the abusive practices by certain insurance carriers must become law. It is common in our state for DLIR to “rubber stamp” all requests for extension of time without consideration if any due process is actually needed.

SB 2364 SD1 establish that employers shall pay all workers compensation claims for compensable injuries and shall not deny claims without reasonable cause or during a pending investigation. They each codify into statute Hawaii Administrative Rules 12-15-94 (Payment by Employer) and amend and clarify it as follows:

- (a) Requires that the employer shall not controvert a claim for services:
 - (1) Without reasonable cause; or
 - (2) While the claim is pending investigation.
- (b) Requires that the employer shall notify the provider within thirty calendar days, instead of sixty, should the employer controvert the claim for services.
- (c) Increases the maximum service fee from \$500 to \$1,000 for which the director may assess against a party who fails to negotiate in good faith.
- (d) Provides that denial of payment without reasonable cause shall be considered a failure to negotiate in good faith.

Please consider the specific justification:

- Hawaii's existing workers' compensation has been plagued by delays and denials, and in many of those cases, insurers seem to automatically deny the claim "pending investigation". These investigations may include reviewing reports from an independent medical examiner,

interviewing other employees, looking at videotapes, or combing through old medical records for evidence that the workplace injury was related to a pre-existing condition.

- While the insurer considers, sometimes for months, the patient is at times unable to use private insurance or get money for which to live.
- Thus, injured workers sometimes wait months for treatment or rehab.
- For many workers with severe injuries, the State's workers' compensation system is the only thing that stands between them and a downward spiral of unemployment, debt and even homelessness.
- Although there is no statute, administrative rule or judicial ruling permitting this practice of "denying pending investigation," insurers continue to abuse this practice.
- Although current law allows the DLIR Director to fine parties up to \$500 for failing to negotiate in good faith, those fines are not regularly enforced. The Director has said that DLIR will begin assessing fines, and an increase of the maximum fine amount to \$1,000 would provide added incentive for parties to negotiate in good faith.
- Therefore, the intent of this bill, to limit employers' use of denying a claim pending investigation and impose fines and penalties for those employers who continue doing so without reasonable cause, is laudable.

We must give the workers in the State of Hawaii protection from the predatory and medieval practices of delaying payment and care as long as possible, forcing worker to return to work with serious injuries, find less suitable employment or be forced to apply for public assistance.

Mahalo for your consideration,

Scott McCaffrey, MD

Founder, WIMAH - Work Injury Medical Association of Hawaii

To: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means

Date: Thursday, February 22, 2018

Time: 10:10 a.m.

Place: State Capitol, Conference Room 211



SUPPORT FOR SENATE BILL 2364 SD1

Dear Committee on Ways and Means,

As Section 1 of SB 2364 states, Hawaii's existing workers' compensation has been plagued by delays and denials, and in many of those cases, insurers seem to automatically deny the claim "pending investigation". These investigations may include reviewing reports from an independent medical examiner, interviewing other employees, looking at videotapes, or combing through old medical records for evidence that the workplace injury was related to a pre-existing condition. While the workers' comp insurer considers, for months and sometimes years, the patient is at times unable to use private insurance or get money for which to live. Although there is no statute, administrative rule or judicial ruling permitting this practice of "denying pending investigation," some workers' comp insurers continue to abuse this practice. Therefore, the intent of this bill, is to have an injured workers' medical treatment costs paid for by their private insurance, if the workers' comp insurer "denies pending investigation". This will allow the patient to receive the medical care they need so they can return to work without any further delay. Currently, when a patient's claim is "denied

pending investigation", neither workers' comp or private insurance will pay for their medical treatment.

Thank you for your consideration,

Paola Grover

CEO

MDTech Solutions L.L.C

To: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means

Date: Thursday, February 22, 2018

Time: 10:10 a.m.

Place: State Capitol, Conference Room 211

LATE

SUPPORT FOR SENATE BILL 2364 SD1

Dear Committee on Ways and Means,

As Section 1 of SB 2364 states, Hawaii's existing workers' compensation has been plagued by delays and denials, and in many of those cases, insurers seem to automatically deny the claim "pending investigation". These investigations may include reviewing reports from an independent medical examiner, interviewing other employees, looking at videotapes, or combing through old medical records for evidence that the workplace injury was related to a pre-existing condition. While the workers' comp insurer considers, for months and sometimes years, the patient is at times unable to use private insurance or get money for which to live. Although there is no statute, administrative rule or judicial ruling permitting this practice of "denying pending investigation," some workers' comp insurers continue to abuse this practice. Therefore, the intent of this bill, is to have an injured workers' medical treatment costs paid for by their private insurance, if the workers' comp insurer "denies pending investigation". This will allow the patient to receive the medical care they need so they can return to work without any further delay. Currently, when a patient's claim is "denied pending investigation", neither workers' comp or private insurance will pay for their medical treatment.

Thank you for your consideration,

Best Regards,



Zain Vally, MD
Vally Medical Group, APC
345 Kauila St.
Hilo, HI 96720

LATE

Aloha,

We are a primary care clinic serving the North Shore of Kauai for 25 years. We see approximately 15,000 visits yearly and are one of the only clinics on Kauai still doing Workers Compensation. Most clinics refuse to see WC because of the awful paperwork demands, the constant denials of payment, the payment delays and the “we are reducing your payment because...” letters.

What other insurers do this? No one. Only Work Comp, and so no docs want to see them anymore—which no doubt makes the insurer happy as their profits come from claim denials, claim delays, and claim reductions.

When claims are delayed or “investigated” the patients generally go without care. I can tell you, as a provider in a community clinic, this can be heartbreaking. People in pain, often unable to work and pay for basic living necessities, and we as their long term medical providers unable to bill either the WC carrier or their private insurer who can only be billed if the WC case is closed.

These are real people, mothers and fathers, sometimes an elderly person still working to support their family. They are caught in a bad situation.

We support SB2364.

Respectfully,

James Winkler

*President
Hale Lea Medicine
dba of Kauai Community Health Alliance*