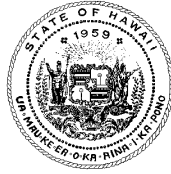


DAVID Y. IGE  
GOVERNOR



RYKER WADA  
DIRECTOR

JASON MINAMI  
DEPUTY DIRECTOR

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

February 4, 2019

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

For Hearing on February 7, 2019  
9:30 a.m., Conference Room 309

BY

RYKER WADA  
DIRECTOR

**House Bill No. 912  
RELATING TO WORKERS' COMPENSATION**

**WRITTEN TESTIMONY ONLY**

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

Thank you for the opportunity to provide **comments** on H.B. 912

H.B. 912 proposes to amend Chapter 386, HRS, by adding a new section to require an employer to pay for all medical services related to an employee's compensable injury and provides a process for an employer to dispute the payment of a medical bill.

Pursuant to HRS, §26-5, the Department of Human Resources Development (DHRD), is responsible for the planning and administration of the State's self-insured and centralized workers' compensation program for all employees of the Executive branch and agencies, the public charter schools, the Hawaii Public Housing Authority, and the Legislature.

DHRD takes the position that the proposed legislation is unnecessary since the existing Workers' Compensation Law (Chapter 386, HRS) already contains provisions in statutes that already address the issues that this bill apparently seeks to rectify. For example, HRS, §386-21, 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.*" (Emphasis added.) In addition, Hawaii Administrative Rules, §12-15-94, provides that "*The employer shall pay for all medical services which the nature of the compensable injury*

*and the process of recovery require. The employer is not required to pay for care unrelated to the compensable injury.” (Emphasis added.)*

In addition, Hawaii Administrative Rules, Title 12, Chapter 15, the Hawaii Workers’ Compensation Medical Fee Schedule, sets forth a detailed administrative process for billing disputes to be resolved and adjudicated.

Thank you for the opportunity to testify.

## TESTIMONY OF LINDA O'REILLY

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COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Representative Aaron Ling Johanson, Chair  
Representative Stacelynn K. M. Eli, Vice Chair

Thursday, February 7, 2019  
9:30 a.m.

### **HB 912**

Chair Johanson, Vice Chair Eli, and members of the Committee on Labor & Public Employment, my name is Linda O'Reilly, Assistant Vice President of Claims - Workers Compensation of First Insurance Company of Hawaii. I am testifying today on behalf of Hawaii Insurers Council. 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 submits comments on this bill. HB 912 attempts to codify Hawaii Administrative Rules (HAR) 12-15-94 regarding the handling of medical payment disputes, in its substance. We view this bill as unnecessary as HAR carry the force of law.

We note, however, the legislation does not exactly track the administrative rule language and the bill in subsection (e), requires the employer to pay for all of the charges in the event of a disagreement. HAR in 12-15-94(c) reads, pay for all acknowledged charges + We believe this could create a higher standard in the law than what currently exists and should be amended to track with the language in the administrative rules.

Thank you for the opportunity to testify.

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

**H.B. 912**

**Relating to Workers' Compensation**

Thursday, February 7, 2019  
9:30 a.m., Agenda Item #12  
State Capitol, Conference Room 309

Marleen Silva  
Manager, Workers' Compensation  
Hawaiian Electric Company, Inc.

Chair Johanson, Vice Chair Eli, and Members of the Committee,

My name is Marleen Silva and I am testifying on behalf of Hawaiian Electric Company Inc. and its subsidiary utilities Maui Electric Company, Limited and Hawai'i Electric Light Company, Inc. (collectively "the Hawaiian Electric Companies") in strong opposition to H.B. 912, Relating to Workers' Compensation.

This measure proposes to add a new section to Chapter 386, Hawaii Revised Statutes ("HRS"), related to payment of bills by the employer and a process to resolve bill disputes between the employer and medical providers.

While we support the intent, we believe many of the provisions in this proposal are problematic and unnecessary. In addition, it appears to create a legal obligation for employers to medical providers, which creates a serious conflict of interest that could unintentionally harm injured employees.

The statutes require employers to pay for all medical treatment related to a compensable work injury, and define the process of payment recovery. The current

dispute resolution procedure and timelines in Section 12-15-94, Hawaii Administrative Rules (“HAR”) have been effective to address these issues. The procedures for addressing controverted claims are also well established in Section 12-12-45, HAR. The rules indicate:

**§12-12-45, HAR Controverted workers’ compensation claims.** In the event of a controverted workers’ compensation claim, the health care contractor shall pay or provide for the medical services in accordance with the health care contract and notify the department of such action. If workers’ compensation liability is established, the health care contractor shall be reimbursed by the workers’ compensation carrier such amounts authorized by chapter 386, HRS, and chapter 10 of title 12, administrative rules. [Eff: 5/7/81] (Auth: HRS §393-32) (Imp: HRS §§393-7, 392-32)

Hawaii’s Prepaid Health Care Law specifically mandates contracted group health to be responsible for the medical care of the employee during the period when a workers’ compensation claim or treatment is under investigation. Not all healthcare contracts comply with the rules in Hawaii’s Prepaid Health Care Law regarding controverted workers’ compensation claims. Therefore, we would suggest language be incorporated into this proposal to require adherence.

Accordingly, the Hawaiian Electric Companies opposes H.B. 912. Thank you for this opportunity to submit testimony.

The Thirtieth Legislature  
Regular Session of 2019

THE HOUSE

Committee on Labor and Public Employment  
Representative Aaron Ling Johanson, Chair  
Representative Stacelynn K.M. Eli, Vice Chair  
State Capitol, Conference Room 309  
Thursday, February 7, 2019; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 912  
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 **supports** H.B. 912, which requires an employer to pay for all medical services related to an employee's compensable injury and provides a process for an employer to dispute the payment of a medical bill.

At times, injuries can be emotionally difficult to handle and can be costly to the employee while they are away from work. The last thing an employee should be worrying about is whether an employer will be covering the cost of their legitimate injuries sustained on the job. H.B. 912 helps prevent undue stress on the injured worker.

The ILWU Local 142 urges the passage of H.B. 912. Thank you for the opportunity to offer testimony on this measure.

DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI  
DIRECTOR

LEONARD HOSHIJO  
DEPUTY DIRECTOR

**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

[www.labor.hawaii.gov](http://www.labor.hawaii.gov)

Phone: (808) 586-8844 / Fax: (808) 586-9099

Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

February 7, 2019

To: The Honorable Aaron Ling Johanson, Chair,  
The Honorable Stacelynn K.M. Eli, Vice Chair, and  
Members of the House Committee on Labor and Public Employment

Date: Thursday, February 7, 2019

Time: 9:30 a.m.

Place: Conference Room 309, State Capitol

From: Scott T. Murakami, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. 912 RELATING TO WORKERS' COMPENSATION**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This proposal seeks to add a new section to Chapter 386, Hawaii Revised Statutes (HRS), that requires an employer to pay for all medical services related to a compensable injury. This measure also provides a process for an employer to dispute the payment of medical bills.

DLIR supports this measure and provides comments.

**II. CURRENT LAW**

Section 386-21, HRS, "Medical care, services, and supplies." (a) states in part, "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. The liability for medical care shall be subject to the deductible under section 386-100."

The Workers' Compensation Medical Fee Schedule (Section 12-15-94, Hawaii Administrative Rules [HAR] "Payment by employer" provides for penalties for unpaid uncontested bills and a process for bill disputes.

### III. COMMENTS ON THE HOUSE BILL

DLIR supports the intent of the measure and offers the following comments.

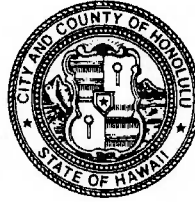
- Section 12-15-94, HAR, requires the employer to pay for all medical services, which the nature of the compensable injury and the process of recovery require. It also provides a process for employers to dispute a bill, and a process for providers to file a bill dispute with the director.
- Sections (c) and (e) of this measure contradicts each other. Section (c) provides that the employer shall pay for all charges billed within 60 days, except where there is a disagreement and the employer has properly noticed the provider of service. Section (e), however, provides that in the event of a disagreement, the employer shall pay all charges and notice the provider of service to file a bill dispute within 60 calendar day of receiving notice of denial.



DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**  
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TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

**LATE**

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR

NOEL T. ONO  
ASSISTANT DIRECTOR

February 5, 2019

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

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

SUBJECT: House Bill No. 912  
Relating to Workers' Compensation

H.B. 912 requires an employer to pay for all medical services related to an employee's compensable injury and provides a process for an employer to dispute the payment of a medical bill.

The City and County of Honolulu, Department of Human Resources, offers the following comment on the bill.

This bill is duplicative and unnecessary because the existing Workers' Compensation Law already contains provisions which address the issues that this bill apparently seeks to rectify. For example, Section 386-21, 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." (Emphasis added.) Also, Section 12-15-94, HAR, states, "The employer shall pay for all medical services which the nature of the compensable injury and the process of recovery require. The employer is not required to pay for care unrelated to the compensable injury." (Emphasis added.) Moreover, HAR Title 12, Chapter 15, the Hawaii Workers' Compensation Medical Fee Schedule, sets forth a detailed administrative process for billing disputes to be resolved and adjudicated.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Carolee C. Kubo  
Director



**LATE**

**To: Rep. Aaron Ling Johanson, Chair  
Rep. Stacelynn K.M. Eli, Vice Chair  
Members of the Committee on Labor and Public Employment**

**Date: Thursday, February 7, 2019**

**Time: 9:30 a.m.**

**Place: Conference Room 309  
State Capitol  
415 South Beretania Street**

**COMMENTS ON HOUSE BILL 912**

Automated HealthCare Solutions (AHCS) supports the intent of HB 912 to outline a process for which an employer shall pay or dispute a workers' compensation claim but believes additional changes should be considered. Accordingly, AHCS submits the following comments on HB 912.

HB 912 provides in part:

- (a) In the event that the employer fails to dispute the employee's claim with the health care provider within the sixty-day period, the employer shall be liable for the services provided, with reasonable evidence showing that the billing was received.
- (b) The employer shall pay for all charges billed within sixty calendar days of receipt of such charges; except for items where: (1) there is a reasonable disagreement; and (2) the employer has submitted timely notice as required by the bill.
- (c) If more than sixty calendar days has lapsed between the employer's receipt of an undisputed billing and date of payment, payment of the billing shall be increased by one per cent per month of the outstanding balance.
- (d) In the event of a disagreement, the employer shall pay for all of the charges and notify the health care provider, copying the claimant, of the denial of payment and the reasons for denial within sixty calendar days of receipt of the billing and explicitly state that if the health care provider does not agree, the health care provider may file a bill dispute request with the director within sixty calendar days.

While AHCS appreciates the objective to establish a timeframe by which an employer must pay or deny a bill for medical services, the current language of HB 912 does not address what should happen when an employer simply ignores a bill for payment altogether. As such, AHCS believes HB 912 should address instances in which there is no response from the employer. AHCS appreciates this Committee's further deliberations on the issue.

Thank you for your consideration.

Jennifer Bean  
Vice President of Government Affairs  
Automated HealthCare Solutions, LLC

**LATE**

**HB-912**

Submitted on: 2/6/2019 4:45:03 PM  
Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Adam Yonamine	Individual	Support	No

Comments:

**HB-912**

Submitted on: 2/6/2019 7:54:50 PM

Testimony for LAB on 2/7/2019 9:30:00 AM



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

Comments:

- 

**To: Rep. Aaron Ling Johanson, Chair**

**Rep. Stacelynn K.M. Eli, Vice Chair**

**Members of the Committee on Labor & Public Employment**

**Date: Thursday, February 7, 2019**

**Time: 9:30 a.m.**

**Place: Conference Room 309**

**Support for House Bill 912**

**As a patient advocate, I strongly support HB 912.**

This bill aims to allow DLIR a mechanism to discourage bad practices by some payors. Not all practice these bad practices, but some do. Thank you for introducing this bill and hearing it today.

**LATE**

**HB-912**

Submitted on: 2/6/2019 8:31:04 PM  
Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Delle Tanioka	Individual	Support	No

Comments:

**LATE**

**HB-912**

Submitted on: 2/6/2019 9:02:02 PM

Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Janel Denny	Individual	Support	No

Comments:

**LATE**

**HB-912**

Submitted on: 2/7/2019 8:44:31 AM

Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lily Miyahira	Individual	Support	No

Comments:



**HB-912**

Submitted on: 2/7/2019 8:57:14 AM

Testimony for LAB on 2/7/2019 9:30:00 AM

**LATE**

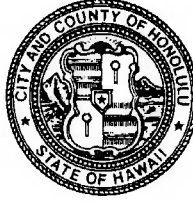
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carmen Mitsuyasu-Gapero	Individual	Support	No

Comments:

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**LATE**

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR

NOEL T. ONO  
ASSISTANT DIRECTOR

February 5, 2019

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

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

SUBJECT: House Bill No. 912  
Relating to Workers' Compensation

H.B. 912 requires an employer to pay for all medical services related to an employee's compensable injury and provides a process for an employer to dispute the payment of a medical bill.

The City and County of Honolulu, Department of Human Resources, offers the following comment on the bill.

This bill is duplicative and unnecessary because the existing Workers' Compensation Law already contains provisions which address the issues that this bill apparently seeks to rectify. For example, Section 386-21, 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." (Emphasis added.) Also, Section 12-15-94, HAR, states, "The employer shall pay for all medical services which the nature of the compensable injury and the process of recovery require. The employer is not required to pay for care unrelated to the compensable injury." (Emphasis added.) Moreover, HAR Title 12, Chapter 15, the Hawaii Workers' Compensation Medical Fee Schedule, sets forth a detailed administrative process for billing disputes to be resolved and adjudicated.

Thank you for the opportunity to testify.

Sincerely,

Handwritten signature of Carolee C. Kubo in black ink.

Carolee C. Kubo  
Director



**LATE**

**To: Rep. Aaron Ling Johanson, Chair  
Rep. Stacelynn K.M. Eli, Vice Chair  
Members of the Committee on Labor & Public Employment**

**Date: Thursday, February 7, 2019**

**Time: 9:30 a.m.**

**Place: Conference Room 309**

**State Capitol**

**415 South Beretania Street**

**Support for House Bill 912**

**As Chair of the Legislative Committee and Past President of Work Injury Medical Association of Hawaii representing the providers treating injured workers in our state, we strongly support HB 912.**

The key provisions of this bill provide for the following:

- (a) In the event that the employer fails to dispute the employee's claim with the health care provider within the sixty-day period, the employer shall be liable for the services provided, with reasonable evidence showing that the billing was received; and
- (b) The employer shall pay for all charges billed within sixty calendar days of receipt of such charges; except for items where: (1) there is a reasonable disagreement; and (2) the employer has submitted timely notice as required by the bill.

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" or simply not respond to the billing.
- For many workers with severe injuries, the workers' compensation system is the only thing that stands between them and a downward spiral of unemployment, debt and even homelessness.
- This bill is an attempt to eliminate the unsavory practice by some insurers of simply ignoring legitimate billings.
- There exists a framework for resolving disputes when an insurer controverts a claim in Hawaii Administrative Rules 12-15-94; however, it's unclear whether this dispute process is well-suited

for a situation where the insurer simply ignores a legitimate billing. The aforesaid HAR states, “Failure of the employer to notify the provider of service shall make the employer liable for services rendered until the provider is informed the employer controverts additional services.” However, an employee would still need to file a dispute with the DLIR to enforce this conditional employer liability.

- This bill aims to allow DLIR a mechanism to discourage bad practices by some insurers.
- We would also suggest that Florida’s Non-Payment Complaint Process be reviewed as another potential option to address this problem:

<https://www.myfloridacfo.com/division/wc/Provider/non-payment.htm>.

Sincerely,

Scott J Miscovich MD

Chair of Legislative Committee and Past President

Work Injury Medical Association of Hawaii