

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

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

Email: dlir.director@hawaii.gov

February 22, 2019

To: The Honorable Sylvia Luke, Chair,
The Honorable Ty J.K. Cullen, Vice Chair, and
Members of the House Committee on Finance

Date: Friday, February 22, 2019

Time: 12:30 p.m.

Place: Conference Room 308, State Capitol

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

Re: H.B. 912 HD1 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 within 60 days. This measure also provides a process for an employer to dispute the payment of medical bills.

DLIR supports this measure.

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 this measure to ensure medical service is timely paid for or disputed by the employer. This proposal partially codifies §12-15-94 and does not affect the current bill dispute process.

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 21, 2019

**TESTIMONY TO THE
HOUSE COMMITTEE ON FINANCE**

For Hearing on Friday, February 22, 2019
12:30 p.m., Conference Room 308

RYKER WADA
DIRECTOR

**House Bill No. 912, House Draft 1
RELATING TO WORKERS' COMPENSATION**

TO CHAIRPERSON LUKE, VICE CHAIR CULLEN, AND MEMBERS OF THE
COMMITTEE:

Thank you for the opportunity to provide **comments** on H.B. 912, House Draft 1.

H.B. 912, House Draft 1., proposes to amend Chapter 386, Hawaii Revised Statutes (HRS), by adding a new section to require an employer to pay for all medical services related to an employee's compensable injury and the employee's rehabilitation within 60 days of receipt of the bill for services, and establishes a process for employers to dispute the payment of an employee's 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) 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, the proposed legislation is duplicative of existing Hawaii Administrative Rules, Title 12, Department of Labor and Industrial Relations, Chapter 15 Workers' Compensation Medical Fee Schedule, Subchapter 4 Administration, §12-15-94 Payment by employer which provides:

§12-15-94 Payment by employer. (a) 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.

(b) When a provider of service notifies or bills an employer, the employer shall inform the provider within sixty calendar days of such notification or billing should the employer controvert the claim for services. 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.

(c) The employer, after accepting liability, shall pay all charges billed within sixty calendar days of receipt of such charges except for items where there is a reasonable disagreement. If more than sixty calendar days lapse between the employer's receipt of an undisputed billing and date of payment, payment of billing shall be increased by one per cent per month of the outstanding balance. In the event of disagreement, the employer shall pay for all acknowledged charges and shall notify the provider of service, copying the claimant, of the denial of payment and the reason for denial of payment within sixty calendar days of receipt. Furthermore, the employer's denial must explicitly state that if the provider of service does not agree, the provider of service may file a "BILL DISPUTE REQUEST" to include a copy of the original bill with the director within sixty calendar days after postmark of the employer's objection, and failure to do so shall be construed as acceptance of the employer's denial.

(d) In the event a reasonable disagreement relating to specific charges cannot be resolved, the employer or provider of service may request intervention by the director in writing with notice to the other party. Both the front page of the billing dispute request and the envelope in which the request is mailed shall be clearly identified as a "BILLING DISPUTE REQUEST" in capital letters and in no less than ten-point type. The director shall send the parties a notice and the parties shall negotiate during the thirty-one calendar days following the date of the notice from the director. If the parties fail to come to an agreement during the thirty-one calendar days, then within fourteen calendar days following the thirty-one day negotiating period, either party may file a request, in writing, to the director to review the dispute with notice to the other party. The director shall send the parties a second notice requesting the parties file position statements, with substantiating documentation to specifically include the amount in dispute and a description of actions taken to resolve the dispute, within fourteen calendar days following the date of the second notice from the director. The director shall review the positions of both parties and render an administrative decision without hearing. A service fee of up to \$500 payable to the State of Hawaii General Fund will be assessed at the discretion of the director against either or both parties

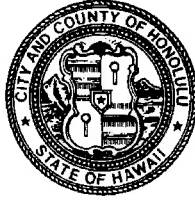
who fail to negotiate in good faith. The decision of the director is final and not appealable. [Eff 1/1/96; am 12/17/01] (Auth: HRS §§386-21, 386-26, 386-71, 386-72) (Imp: HRS §§386-21, 386-26).

Thank you for the opportunity to testify.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

850 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 22, 2019

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
and Members of the Committee
on Finance
The House of Representatives
State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

**SUBJECT: House Bill No. 912, H.D. 1
Relating to Workers' Compensation**

H.B. 912, H.D. 1, requires an employer to pay for all medical services related to an employee's compensable injury and the employee's rehabilitation within 60 days of receipt of the bill for services; and establishes a process for employers to dispute the payment of an employee's 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 it restates long-existing language in the Workers' Compensation Law, specifically Section 386-21, HRS, and Section 12-15-94, HAR. The former requires payment for reasonably needed medical care as the nature of the work injury requires and the latter provides payment is not required for care unrelated to the work injury. Section 12-15-94, HAR, requires employers to pay all charges within 60 days of receipt, unless the employer controverts the bill. This administrative rule further provides a detailed administrative process for such billing disputes to be resolved and adjudicated.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in cursive script that reads "Carolee C. Kubo".

Carolee C. Kubo
Director



**To: Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
Members of the Committee on Finance**

Date: Friday, February 22, 2019

Time: 12:30 p.m.

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

Support for House Bill 912 HD1

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 HD1.

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

TESTIMONY OF ALISON UEOKA

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Friday, February 22, 2019
12:30 p.m.

HB 912, HD1

Chair Luke, Vice Chair Cullen, and members of the Committee on Finance, my name is Alison Ueoka, President of 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. HB 912, HD1 attempts to codify Hawaii Administrative rules (HAR) 12-15-94 regarding the handling of medical payment disputes. However, the bill does not track exactly with HAR and leaves out an important process in which to handle disputes. If this bill becomes law, HAR will need to be amended so as not to exceed statutory authority which may leave the injured worker without treatment if disputes are not handled in a timely manner.

Unnecessarily prolonging injury cases hurt all involved including the injured worker, the employer, and the medical provider.

If the Administrative rule is codified, it should be left as it is currently written without any changes. If not, we do not believe this bill is necessary, therefore, we ask that you hold the bill.

Thank you for the opportunity to testify.

HB-912-HD-1

Submitted on: 2/21/2019 8:41:22 AM

Testimony for FIN on 2/22/2019 12:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-----------------------|---------------------------|---------------------------|
| Dylan P. Armstrong | Oahu County Democrats | Support | No |

Comments:



**To: Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
Members of the Committee on Finance**

Date: Friday, February 22, 2019

Time: 12:30 p.m.

Place: Conference Room 308

State Capitol

415 South Beretania Street

COMMENTS ON HOUSE BILL 912 HD1

Automated HealthCare Solutions (AHCS) supports the intent of HB 912 HD1 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 HD1.

HB 912 HD1 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.

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 HD1 does not address what should happen when an employer simply ignores a bill for payment altogether. As such, AHCS believes HB 912 HD1 should address instances in which there is no response from the employer. AHCS appreciates this Committee's further deliberations on the issue.

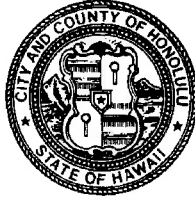
Thank you for your consideration.

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

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
850 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
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 22, 2019

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
and Members of the Committee
on Finance
The House of Representatives
State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

**SUBJECT: House Bill No. 912, H.D. 1
Relating to Workers' Compensation**

H.B. 912, H.D. 1, requires an employer to pay for all medical services related to an employee's compensable injury and the employee's rehabilitation within 60 days of receipt of the bill for services; and establishes a process for employers to dispute the payment of an employee's 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 it restates long-existing language in the Workers' Compensation Law, specifically Section 386-21, HRS, and Section 12-15-94, HAR. The former requires payment for reasonably needed medical care as the nature of the work injury requires and the latter provides payment is not required for care unrelated to the work injury. Section 12-15-94, HAR, requires employers to pay all charges within 60 days of receipt, unless the employer controverts the bill. This administrative rule further provides a detailed administrative process for such billing disputes to be resolved and adjudicated.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo", is written over a horizontal line.

Carolee C. Kubo
Director

Date:Friday, February 22, 2019

Time: 12:30 p.m.

Place:Conference Room 309

State Capitol

415 South Beretania Street

LATE

Support for House Bill 912

As President of Hawaii Injured Workers Association and Past President of Hawaii Medical Association, I strongly support HB 912.

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.

As a suggestion for a solution, please review Florida's Non-Payment Complaint Process as another potential option to address this problem: <https://www.myfloridacfo.com/division/wc/Provider/non-payment.htm>.

Sincerely,

Scott McCaffrey, MD

President of Hawaii Injured Workers' Alliance

Past President of Hawaii Medical Association

