



STATE OF HAWAII  
KA MOKU'ĀINA O HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
KA 'OIHANA PONO LIMAHANA

March 29, 2023

To: The Honorable Scot Z. Matayoshi, Chair,  
The Honorable Andrew Takuya Garrett, Vice Chair, and  
Members of the House Committee on Labor and Government Operations

Date: Wednesday, March 29, 2023  
Time: 10:00 a.m.  
Place: Conference Room 309, State Capitol

From: Jade T. Butay, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.C.R No. 157/H.R. 158 REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONTINUE TO RECOGNIZE AND ACCEPT THE RIGHT OF A PROVIDER OF SERVICE TO ASSIGN THE RIGHT TO PARTICIPATE IN A WORKERS' COMPENSATION BILLING DISPUTE TO A BILLING COMPANY.**

**I. OVERVIEW OF PROPOSED LEGISLATION**

DLIR **supports the intent** of this measure but notes the workers' compensation case mentioned in this resolution is currently under appeal so the department cannot comment on that case. HCR157/HR158 request the DLIR to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

**II. CURRENT LAW**

§12-15-1 HAR, "Provider of service" means any person or entity who is licensed, certified, recognized, or registered with the Department of Commerce and Consumer Affairs (DCCA) and who renders medical care, medical services, or medical supplies in accordance with Chapter 386, HRS.

§386-1 provides that "Medical care", "medical services", or "medical supplies means every type of care, treatment, surgery, hospitalization, attendance, service, and supplies as the nature of the work injury requires, and includes such care, services and supplies rendered or furnished by a licensed or certified physician, dispensing optician, physical therapist, physical therapist assistant as recognized pursuant to section 461J-3(e), nurse, advanced practice registered nurse as recognized pursuant to chapter 457, occupation therapist, certified occupational therapy

assistant as recognized pursuant to chapter 457G, or licensed massage therapist as recognized pursuant to chapter 452.

§386-21(c) provides that, when a dispute exists between an insurer or self-insured employer and a medical services provider regarding the amount of a fee for medical services, the Director may resolve the dispute in a summary manner as the Director may prescribe.

§12-15-94(d), HAR, 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.

## **II. COMMENTS ON THE HOUSE CONCURRENT RESOLUTION**

The DLIR recognizes and accepts the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company. However, the department would like to emphasize that all workers' compensation cases are adjudicated on an individual case-by-case basis. A provider of service has a right to assign their rights to another entity. However, the assignee has the obligation to provide evidence of their legal right to negotiate on behalf of that provider. Provider of service/assignee also has the responsibility to negotiate as per the workers' compensation statute.



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**HCR-157**

Submitted on: 3/28/2023 9:26:25 AM

Testimony for LGO on 3/29/2023 10:00:00 AM

| <b>Submitted By</b> | <b>Organization</b>              | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|----------------------------------|---------------------------|------------------------|
| MEGAN TABARANGO     | Vintage Medical and Billing, LLC | Support                   | Written Testimony Only |

Comments:

Support for HCR 157

I strongly support HCR 157, which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

HCR 157 provides in part:

1. The Director of Labor and Industrial Relations has recognized for over ten years that billing companies are allowed to step into the shoes of a provider of service with the authority to participate in the dispute process.
2. Just as employers frequently assign their rights to participate in a workers' compensation billing dispute regarding prescription medication claims (dispute) to an insurance carrier or other billing review company, providers of service should have a similar right.
3. Unfortunately, some opponents of this well-established and balanced precedent have recently attempted to undermine the ability of a provider of service to assign their rights to participate in a dispute to a billing company.
4. These opponents are urging employers and carriers to refuse to recognize the right of billing companies to participate in disputes.
5. If these opponents are successful, this may restrict the ability of a provider of service to effectively treat an injured worker and adversely impact the main goal of the workers' compensation system, which is to heal injured workers and return them to work as soon as reasonably possible.

As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

Thank you for your consideration.

Megan Tabarango

**HCR-157**

Submitted on: 3/27/2023 5:02:42 PM

Testimony for LGO on 3/29/2023 10:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b> |
|---------------------|---------------------|---------------------------|----------------|
| Cathy Wilson        | Individual          | Support                   | In Person      |

Comments:

Aloha Chair Rep. Scot Z. Matayoshi, Vice-Chair Rep. Andrew Takuya Garrett, and Members of the Committee on Labor & Government Operations,

**Support for HCR 157 and HR 158**

I strongly support HCR/157 and HR 158, which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

HCR 157 and HR 158 provides in part:

1. The Director of Labor and Industrial Relations has recognized for over ten years that billing companies are allowed to step into the shoes of a provider of service with the authority to participate in the dispute process.
2. Just as employers frequently assign their rights to participate in a workers' compensation billing dispute regarding prescription medication claims (dispute) to an insurance carrier or other billing review company, providers of service should have a similar right.
3. Unfortunately, some opponents of this well-established and balanced precedent have recently attempted to undermine the ability of a provider of service to assign their rights to participate in a dispute to a billing company.
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As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

**Mahalo for your consideration.**

**Cathy Wilson**





**HCR-157**

Submitted on: 3/28/2023 4:43:59 PM  
Testimony for LGO on 3/29/2023 10:00:00 AM

**LATE**

**LATE**

| Submitted By        | Organization                       | Testifier Position | Testify                |
|---------------------|------------------------------------|--------------------|------------------------|
| Dr. Scott McCaffrey | Hawaii Injured Workers Association | Support            | Written Testimony Only |

Comments:

Support for HCR 157/HR 158

I strongly support HCR 157/HR 158, which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

HCR 157/HR 158 provides in part:

- (a) The Director of Labor and Industrial Relations has recognized for over ten years that billing companies are allowed to step into the shoes of a provider of service with the authority to participate in the dispute process.
- (b) Just as employers frequently assign their rights to participate in a workers' compensation billing dispute regarding prescription medication claims (dispute) to an insurance carrier or other billing review company, providers of service should have a similar right.
- (c) Unfortunately, some opponents of this well-established and balanced precedent have recently attempted to undermine the ability of a provider of service to assign their rights to participate in a dispute to a billing company.
- (d) These opponents are urging employers and carriers to refuse to recognize the right of billing companies to participate in disputes.
- (e) If these opponents are successful, this may restrict the ability of a provider of service to effectively treat an injured worker and adversely impact the main goal of the workers' compensation system, which is to heal injured workers and return them to work as soon as reasonably possible.

As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

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