

A Bill for an Act Relating to Standardized Forms for Workers' Compensation Health Care Providers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-21, Hawaii Revised Statutes, is amended to read as follows:

“§386-21 Medical care, services, and supplies. (a) 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 the medical care, services, and supplies shall be subject to the deductible under section 386-100.

(b) Whenever medical care is needed, the injured employee may select any physician or surgeon who is practicing on the island where the injury was incurred to render [such] medical care. If the services of a specialist are indicated, the employee may select any [such] physician or surgeon practicing in the State. The director may authorize the selection of a specialist practicing outside the State where no comparable medical attendance within the State is available. Upon procuring the services of [such] a physician or surgeon, the injured employee shall give proper notice of the employee’s selection to the employer within a reasonable time after the beginning of the treatment. If for any reason during the period when medical care is needed, the employee wishes to change to another physician or surgeon, the employee may do so in accordance with rules prescribed by the director. If the employee is unable to select a physician or surgeon and the emergency nature of the injury requires immediate medical attendance, or if the employee does not desire to select a physician or surgeon and so advises the employer, the employer shall select the physician or surgeon. [Such] The selection, however, shall not deprive the employee of the employee’s right of subsequently selecting a physician or surgeon for continuance of needed medical care.

(c) The liability of the employer for medical care, services, and supplies shall be limited to the charges computed as set forth in this section. The director shall make determinations of the charges and adopt fee schedules based upon those determinations. Effective January 1, 1997, and for each succeeding calendar year thereafter, the charges shall not exceed one hundred ten per cent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services, except as provided in this subsection. 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.

If the director determines that an allowance under the medicare program is not reasonable, or if a medical treatment, accommodation, product, or service existing as of June 29, 1995, is not covered under the medicare program, the director [may], at any time, may establish an additional fee schedule or schedules not exceeding the prevalent charge for fees for services actually received by providers of health care services to cover charges for that treatment, accommodation, product, or service. If no prevalent charge for a fee for service has been established for a given service or procedure, the director shall adopt a reasonable rate that shall be the same for all providers of health care services to be paid for that service or procedure.

The director shall update the schedules required by this section every three years or annually, as required. The updates shall be based upon:

- (1) Future charges or additions prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services; or
- (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.

When a dispute exists between an insurer or self-insured employer and a medical ~~[service]~~ 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; provided that a provider shall not charge more than the provider's private patient charge for the service rendered.

(d) The director, with input from stakeholders in the workers' compensation system, including but not limited to insurers, health care providers, employers, and employees, shall establish standardized forms for health care providers to use when reporting on and billing for injuries compensable under this chapter. The forms may be in triplicate, or in any other configuration so as to minimize, to the extent practicable, the need for a health care provider to fill out multiple forms describing the same workers' compensation case to the department, the injured employee's employer, and the employer's insurer.

~~[(d)]~~ (e) If it appears to the director that the injured employee has wilfully refused to accept the services of a competent physician or surgeon selected as provided in this section, or has wilfully obstructed the physician or surgeon, or medical, surgical, or hospital services or supplies, the director may consider such refusal or obstruction on the part of the injured employee to be a waiver in whole or in part of the right to medical care, services, and supplies, and may suspend the weekly benefit payments, if any, to which the employee is entitled so long as ~~[such]~~ the refusal or obstruction continues.

~~[(e)]~~ (f) ~~[Such]~~ Any funds as are periodically necessary to the department to implement the foregoing provisions may be charged to and paid from the special compensation fund provided by section 386-151.

~~[(f)]~~ (g) In cases where the compensability of the claim is not contested by the employer, the medical services provider shall notify or bill the employer, insurer, or the special compensation fund for services rendered relating to the compensable injury within two years of the date services were rendered. Failure to bill the employer, insurer, or the special compensation fund within the two-year period shall result in the forfeiture of the medical ~~[service]~~ services provider's right to payment. The medical service provider shall not directly charge the injured employee for treatments relating to the compensable injury."

SECTION 2. Notwithstanding the moratorium imposed under Act 11, Special Session Laws of Hawaii 2005, on the director of labor and industrial relations' rulemaking authority, the director of labor and industrial relations shall adopt, pursuant to chapter 91, Hawaii Revised Statutes, the standardized forms required under section 1 of this Act and, at no cost to health care providers, shall make the forms available to the health care providers of the State.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2006.

(Approved June 14, 2006.)