# ACT 198 S.B. NO. 3072

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. The legislature notes that section 431:10C-308.5, Hawaii Revised Statutes, limits the charges for and frequency of medical treatment covered by personal injury protection (PIP) benefits. In accordance with this limitation on charges, the motor vehicle insurer has an obligation to limit payment of the insured's benefits for treatment.

The legislature finds that, as a result of the Hawaii Supreme Court's ruling in Orthopedic Associates of Hawaii, Inc. v. Hawaiian Insurance & Guaranty Co., Ltd., No. 24634, slip. op. (Dec. 7, 2005), insurers have implemented a process of issuing denials of benefits on all payments that are less than the amount billed. Some of the larger insurers are issuing several thousand denials each month. Copies of these denials are given to both the provider and the insured. This has prompted many calls from insureds who do not understand the process and are concerned that the insurer might be denying them access to medical treatment.

This Act is intended to clarify the process to be followed in any billing adjustment or dispute where an insurer receives and does not dispute the treatment rendered but finds the billing to exceed the permissible charges. This Act is not intended to affect the merits of the amount billed or the amount owed under PIP. Specifically, this Act clarifies that any adjustments to payment of the amount billed is an acceptance of the treatment and not a denial of benefit. Therefore, section 431:10C-304(3), which requires a written denial of benefit, is not applicable to an adjustment to the amount payable under PIP benefits. Rather than issue a denial, this Act clarifies that the insurer's obligation is to "pay all undisputed charges" and "negotiate in good faith with the provider on the disputed charges."

SECTION 2. Section 431:10C-308.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) In the event of a dispute between the provider and the insurer over the amount of a charge or the correct fee or procedure code to be used under the workers' compensation supplemental medical fee schedule, the insurer shall:

(1) Pay all undisputed charges within thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued and demand for payment thereof; and

(2) Negotiate in good faith with the provider on the disputed charges for a period up to sixty days after the insurer has received reasonable proof of the fact and amount of benefits accrued and demand for payment thereof.

If the provider and the insurer are unable to resolve the dispute[~~,~~] after a period of sixty days pursuant to paragraph (2), the provider, insurer, or claimant may submit the dispute to the commissioner, arbitration, or court of competent jurisdiction. The parties shall include documentation of the efforts of the insurer and the provider to reach a negotiated resolution of the dispute. This section shall not be subject to the requirements of section 431:10C-304(3) with respect to all disputes about the amount of a charge or the correct fee and procedure code to be used under the workers' compensation supplemental medical fee schedule. An insurer who disputes the amount of a charge or the correct fee or procedure code under this section shall not be deemed to have denied a claim for benefits under section 431:10C-304(3); provided that the insurer shall pay what the insurer believes is the amount owed and

shall furnish a written explanation of any adjustments to the provider and to the claimant at no charge, if requested. The provider, claimant, or insurer may submit any dispute involving the amount of a charge or the correct fee or procedure code to the commissioner, to arbitration, or to a court of competent jurisdiction.''

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

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2006.)