

JAN 23 2009

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-21, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:
3 "(c) The liability of the employer for medical care,
4 services, and supplies shall be limited to the charges computed
5 as set forth in this section. The director shall make
6 determinations of the charges and adopt fee schedules based upon
7 those determinations. Effective January 1, 1997, and for each
8 succeeding calendar year thereafter, the charges shall not
9 exceed one hundred ten per cent of fees prescribed in the
10 [~~Medicare Resource Based~~] medicare Resource-Based Relative Value
11 Scale [~~system~~] applicable to Hawaii as prepared by the United
12 States Department of Health and Human Services, except as
13 provided in this subsection. The rates or fees provided for in
14 this section shall be adequate to ensure at all times the
15 standard of services and care intended by this chapter to
16 injured employees.



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

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

17 (1) Future charges or additions prescribed in the
18 ~~[Medicare Resource Based]~~ medicare Resource-Based
19 Relative Value Scale [~~system~~] applicable to Hawaii as
20 prepared by the United States Department of Health and
21 Human Services; or



1 (2) A statistically valid survey by the director of
2 prevalent charges for fees for services actually
3 received by providers of health care services or based
4 upon the information provided to the director by the
5 appropriate state agency having access to prevalent
6 charges for medical fee information.

7 When a dispute exists between an insurer or self-insured
8 employer and a medical services provider regarding the amount of
9 a fee for medical services, the director may resolve the dispute
10 in a summary manner as the director may prescribe; provided that
11 a provider shall not charge more than the provider's private
12 patient charge for the service rendered.

13 When a dispute exists between an employee and the employer
14 or the employer's insurer regarding the proposed treatment plan
15 or whether medical services should be continued, the employee
16 shall continue to receive essential medical services prescribed
17 by the treating physician necessary to prevent deterioration of
18 the employee's condition or further injury until the director
19 issues a decision on whether the employee's medical treatment
20 should be continued. The director shall make a decision within
21 thirty days of the filing of a dispute. If the director
22 determines that medical services pursuant to the treatment plan



1 should be or should have been discontinued, the director shall
 2 designate the date after which medical services for that
 3 treatment plan are denied. The employer or the employer's
 4 insurer may recover from the employee's personal health care
 5 provider qualified pursuant to section 386-27, or from any other
 6 appropriate occupational or non-occupational insurer, all the
 7 sums paid for medical services rendered after the date
 8 designated by the director. Under no circumstances shall the
 9 employee be charged for the disallowed services, unless the
 10 services were obtained in violation of section 386-98. The
 11 attending physician, employee, employer, or insurance carrier
 12 may request in writing that the director review the denial of
 13 the treatment plan or the continuation of medical services."

14 SECTION 2. This Act does not apply to any dispute resolved
 15 prior to the effective date of this Act.

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

18 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: *[Signature]*

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Report Title:

Workers' Compensation; Medical Treatment

Description:

Requires the employer to continue medical services to an injured employee despite disputes over whether treatment should be continued, until the director of labor and industrial relations decides whether treatment should be continued.

