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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1           SECTION 1. The legislature finds that Hawaii's existing  
2 workers' compensation system has been plagued by delays and  
3 denials, and in many of those cases, insurers seem to  
4 automatically deny the claim pending investigation. These  
5 investigations may include reviewing reports from independent  
6 medical examiners, interviewing other employees, looking at  
7 videotapes, or combing through old medical records for evidence  
8 as to whether the workplace injury was related to a preexisting  
9 condition. While insurers consider, sometimes for months, how  
10 to proceed on claims, patients are at times unable to receive  
11 compensation.

12           The purpose of this Act is to prohibit any employer from  
13 denying a workers' compensation claim without reasonable cause  
14 or while the claim is pending investigation and to impose fines  
15 and other penalties on any employer who continues to do so  
16 without reasonable cause.



1 SECTION 2. Chapter 386, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§386- Payment by employer; duty to service provider;  
5 disagreement with service provider; resolution procedures. (a)

6 Notwithstanding any other law to the contrary, the employer  
7 shall pay for all medical services required by the employee for  
8 the compensable injury and the process of recovery. The  
9 employer shall not be required to pay for care unrelated to the  
10 compensable injury.

11 (b) The employer shall not dispute a claim for services:

12 (1) Without reasonable cause; or

13 (2) While the claim is pending investigation;

14 provided that a claim shall be presumed compensable when  
15 submitted by an employee who is excluded from health care  
16 coverage under chapter 393, the Hawaii Prepaid Health Care Act.

17 (c) If an employer disputes a claim for services rendered  
18 or a bill received, the employer shall notify the provider of  
19 services of that fact within thirty calendar days of receipt of  
20 the claim for services or bill. Failure by the employer to  
21 submit timely notice to the provider of services shall render



1 the employer liable for the services provided or bill received  
2 until the employer satisfies the notice requirement and except  
3 as provided in subsection (d).

4 (d) Any employer who has received a claim for services  
5 rendered or a bill from a provider of services shall be liable  
6 for the claim or bill and, within sixty calendar days of receipt  
7 of the claim or bill, shall pay all charges listed in the claim  
8 for services rendered or the bill, except for items for which  
9 there is reasonable disagreement. After expiration of the  
10 sixty-calendar-day time period for payment, the provider of  
11 services may increase the total outstanding balance owed for  
12 undisputed services or charges by one per cent per month.

13 (e) If reasonable disagreement occurs, the employer shall:

14 (1) Pay all undisputed charges;

15 (2) Notify the provider of services of the denial of  
16 payment of any disputed charges and the reason for the  
17 denial within thirty calendar days of receipt of the  
18 bill or claim for services rendered; and

19 (3) Provide a copy of the denial to the employee.

20 The employer's denial shall include a statement as follows:



1 "IF THE PROVIDER OF SERVICES DOES NOT AGREE WITH THE  
2 EMPLOYER'S STATED REASON FOR DENIAL OF PAYMENT, THE  
3 PROVIDER OF SERVICES MAY FILE A BILL DISPUTE REQUEST  
4 WITH THE DIRECTOR OF THE HAWAII DEPARTMENT OF LABOR  
5 AND INDUSTRIAL RELATIONS. THE BILL DISPUTE REQUEST  
6 SHALL BE CLEARLY IDENTIFIED AS 'BILL DISPUTE REQUEST'  
7 IN CAPITAL LETTERS AND IN NO LESS THAN TEN POINT FONT  
8 ON THE FRONT OF THE FIRST PAGE OF THE REQUEST AND ON  
9 THE FRONT OF THE ENVELOPE IN WHICH THE REQUEST IS  
10 SENT. ANY BILL DISPUTE REQUEST SHALL BE FILED WITHIN  
11 THIRTY CALENDAR DAYS AFTER THE POSTMARK DATE OF THE  
12 EMPLOYER'S DENIAL OF PAYMENT. IF THE PROVIDER OF  
13 SERVICES FAILS TO SUBMIT A TIMELY BILL DISPUTE  
14 REQUEST, THE PROVIDER SHALL FORFEIT THE RIGHT TO  
15 DISPUTE THE EMPLOYER'S DENIAL OF PAYMENT."

16 (f) Upon receipt of a bill dispute request, the director  
17 shall send notice to the parties and the parties shall negotiate  
18 to resolve the disputed services or charges during the thirty-  
19 one calendar days following the date of the notice from the  
20 director. If the parties fail to enter into an agreement within  
21 the thirty-one calendar days, then within fourteen calendar days



1 thereafter, either party may file a request in writing to the  
2 director to review the bill dispute request; provided that the  
3 requesting party shall send a notice of the request to the non-  
4 requesting party. Upon receipt of the request for review, the  
5 director shall send the parties a second notice requesting each  
6 party to file a position statement with the director, including  
7 substantiating documentation that describes the services and  
8 amounts in dispute and all actions taken to resolve the dispute  
9 during the thirty-one calendar day period of negotiation under  
10 this subsection. The director shall review the positions of the  
11 parties and render an administrative decision without a hearing.  
12 The director may assess a fine of up to \$1,000 payable to the  
13 general fund against any party if the director finds that the  
14 party has failed to negotiate in good faith. Denial of payment  
15 without reasonable cause shall be considered a failure to  
16 negotiate in good faith.

17 (g) An employee shall be liable for reimbursement of  
18 benefits or payments received under this section for any  
19 disputed claim that is found to be not compensable, whether  
20 received from an employer, insurer, or the special compensation  
21 fund. Reimbursement shall be made to the source from which the



1 compensation was received, and may include recoupment by the  
2 insurer of all payments made for medical care, medical services,  
3 vocational rehabilitation services, and all other services  
4 rendered for payment under this section."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Workers' Compensation; Compensable Claims; Employer Payment

**Description:**

Prohibits employer disputes of workers' compensation claims without reasonable cause or while the claim is pending investigation. Establishes negotiation, notice, and review procedures for disputed claims. Establishes penalty for failure to negotiate in good faith. Permits service providers to charge interest on late bill payments. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

