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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE.

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

1           SECTION 1. The purpose of this Act is to carry out the  
2 recommendations of auditor's report no. 13-10, *A Report on*  
3 *Methodology for the Department of Labor and Industrial Relations'*  
4 *Workers' Compensation Medical Fee Schedule*. The report was  
5 produced pursuant to Act 97, Session Laws of Hawaii 2013, which  
6 required the state auditor to assist the director of labor and  
7 industrial relations in administratively adjusting the workers'  
8 compensation medical fee schedule.

9           SECTION 2. Section 386-21, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11           "(c) The liability of the employer for medical care,  
12 services, and supplies shall be limited to the charges computed  
13 as set forth in this section. The director shall make  
14 determinations of the charges and adopt fee schedules based upon  
15 those determinations. Effective January 1, 1997, and for each  
16 succeeding calendar year thereafter, the charges shall not  
17 exceed one hundred ten per cent of fees prescribed in the



1 Medicare Resource Based Relative Value Scale applicable to  
2 Hawaii as prepared by the United States Department of Health and  
3 Human Services, except as provided in this subsection. The  
4 rates or fees provided for in this section shall be adequate to  
5 ensure at all times the standard of services and care intended  
6 by this chapter to injured employees.

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

20       The director shall update the schedules required by this  
21 section [~~every three years or annually, as required.~~] annually.

22 The updates shall be based upon:



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

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

11 Each year, the director may establish a maximum allowable  
12 fee ceiling that is higher than one hundred ten per cent of fees  
13 prescribed in the Medicare Resource Based Relative Value Scale  
14 applicable to Hawaii for evaluation and management medical  
15 services as defined by the American Medical Association's  
16 Current Procedural Terminology codes.

17 When a dispute exists between an insurer or self-insured  
18 employer and a medical services provider regarding the amount of  
19 a fee for medical services, the director may resolve the dispute  
20 in a summary manner as the director may prescribe; provided that  
21 a provider shall not charge more than the provider's private  
22 patient charge for the service rendered.



1           When a dispute exists between an employee and the employer  
2 or the employer's insurer regarding the proposed treatment plan  
3 or whether medical services should be continued, the employee  
4 shall continue to receive essential medical services prescribed  
5 by the treating physician necessary to prevent deterioration of  
6 the employee's condition or further injury until the director  
7 issues a decision on whether the employee's medical treatment  
8 should be continued. The director shall make a decision within  
9 thirty days of the filing of a dispute. If the director  
10 determines that medical services pursuant to the treatment plan  
11 should be or should have been discontinued, the director shall  
12 designate the date after which medical services for that  
13 treatment plan are denied. The employer or the employer's  
14 insurer may recover from the employee's personal health care  
15 provider qualified pursuant to section 386-27, or from any other  
16 appropriate occupational or non-occupational insurer, all the  
17 sums paid for medical services rendered after the date  
18 designated by the director. Under no circumstances shall the  
19 employee be charged for the disallowed services, unless the  
20 services were obtained in violation of section 386-98. The  
21 attending physician, employee, employer, or insurance carrier



1 may request in writing that the director review the denial of  
2 the treatment plan or the continuation of medical services."

3 SECTION 3. No later than the commencement of the regular  
4 session before the repeal date of this Act, the director of  
5 labor and industrial relations shall submit a report to the  
6 legislature analyzing this Act's impact on workers' compensation  
7 claimants' access to appropriate treatment.

8 SECTION 4. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so much  
10 thereof as may be necessary for fiscal year 2014-2015 to prepare  
11 the report analyzing this Act's impact on workers' compensation  
12 claimants' access to appropriate treatment.

13 The sum appropriated shall be expended by the department of  
14 labor and industrial relations for the purposes of this Act.

15 SECTION 5. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$ or so much  
17 thereof as may be necessary for fiscal year 2014-2015 for the  
18 establishment of two full-time equivalent (2.00 FTE) positions:  
19 one research statistician III position in the research and  
20 statistics office of the department of labor and industrial  
21 relations, whose duties include the implementation of an annual  
22 review process; and one office assistant IV position in the



1 disability compensation division of the department of labor and  
2 industrial relations, whose duties include supporting the annual  
3 fee schedule rule-making process.

4 The sum appropriated shall be expended by the department of  
5 labor and industrial relations for the purposes of this Act.

6 SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on July 1, 2050, and  
9 be repealed on June 30, 2019; provided that section 386-21(c),  
10 Hawaii Revised Statutes, shall be reenacted in the form in which  
11 it existed on June 30, 2014.



**Report Title:**

Workers' Compensation Medical Fee Schedule; Appropriation

**Description:**

Requires DLIR to update the workers' compensation medical fee schedule annually. Authorizes DLIR to establish a workers' compensation medical fee ceiling that exceeds 110% of the fees prescribed in the Medicare Resource Based Relative Value Scale for Hawaii. Makes appropriations. Sunsets 6/30/2019. Effective 7/1/2050. (SD1)

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

