
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 Relative Value Scale system applicable
11 to Hawaii as prepared by the United States Department of Health
12 and Human Services, except as provided in this subsection. The
13 rates or fees provided for in this section shall be adequate to
14 ensure at all times the standard of services and care intended
15 by this chapter to injured employees.

16 If the director determines that an allowance under the
17 medicare program is not reasonable, or if a medical treatment,
18 accommodation, product, or service existing as of June 29, 1995,



1 is not covered under the medicare program, the director, at any
2 time, may establish an additional fee schedule or schedules not
3 exceeding the prevalent charge for fees for services actually
4 received by providers of health care services to cover charges
5 for that treatment, accommodation, product, or service. If no
6 prevalent charge for a fee for service has been established for
7 a given service or procedure, the director shall adopt a
8 reasonable rate that shall be the same for all providers of
9 health care services to be paid for that service or procedure.

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

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

17 (2) A statistically valid survey by the director of
18 prevalent charges for fees for services actually
19 received by providers of health care services or based
20 upon the information provided to the director by the
21 appropriate state agency having access to prevalent
22 charges for medical fee information.



1 When a dispute exists between an insurer or self-insured
2 employer and a medical services provider regarding the amount of
3 a fee for medical services, the director may resolve the dispute
4 in a summary manner as the director may prescribe; provided that
5 a provider shall not charge more than the provider's private
6 patient charge for the service rendered.

7 When a dispute exists between an employee and the employer
8 or the employer's insurer regarding the proposed treatment plan
9 or whether medical services should be continued, the employee
10 shall continue to receive essential medical services prescribed
11 by the treating physician necessary to prevent deterioration of
12 the employee's condition or further injury until the director
13 issues a decision on whether the employee's medical treatment
14 should be continued. The director shall make a decision within
15 thirty days of the filing of a dispute. If the director
16 determines that medical services pursuant to the treatment plan
17 should be or should have been discontinued, the director shall
18 designate the date after which medical services for that
19 treatment plan are denied. The employer or the employer's
20 insurer may recover from the employee's personal health care
21 provider qualified pursuant to section 386-27, or from any other
22 appropriate occupational or non-occupational insurer, all the



1 sums paid for medical services rendered after the date
2 designated by the director. Under no circumstances shall the
3 employee be charged for the disallowed services, unless the
4 services were obtained in violation of section 386-98. The
5 attending physician, employee, employer, or insurance carrier
6 may request in writing that the director review the denial of
7 the treatment plan or the continuation of medical services."

8 SECTION 2. This Act does not apply to any dispute resolved
9 prior to its effective date.

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2008.



H.B. NO. 2388
H.D. 1
S.D. 2
C.D. 1

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. Effective 7/1/2008. (HB2388 CD1)

HB2388 CD1 HMS 2008-3910

