



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

February 6, 2025

To: The Honorable Jackson D. Sayama, Chair,
The Honorable Mike Lee, Vice Chair, and
Members of the House Committee on Labor

Date: Thursday, February 6, 2025
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 423 RELATING TO WORKERS' COMPENSATION

I. OVERVIEW OF PROPOSED LEGISLATION

HB423 proposes to amend Chapter 386-25, Hawaii Revised Statutes (HRS), to clarify the process of selecting a certified provider of rehabilitation services. In addition, this measure requires providers to automatically approve vocational rehabilitation services for an injured employee when it is determined that vocational rehabilitation services are needed for the injured employee to return to suitable gainful employment.

The DLIR appreciates the intent of this measure and offers comments.

II. CURRENT LAW

Section 386-25, HRS provides in part that the purposes of vocational rehabilitation are to restore an injured worker's earnings capacity as nearly as possible to that level that the worker was earning at the time of injury and to return the injured worker to suitable gainful employment in the active labor force as quickly as possible in a cost-effective manner.

Section 386-25(d) HRS, states, a provider shall submit an initial evaluation report of the employee to the employer and the director within forty-five days of the date of referral or selection. The evaluation shall determine whether the employee requires vocational rehabilitation services to return to suitable gainful employment, identify the necessary services and state whether the provider can provide these services.

III. COMMENTS ON THE HOUSE BILL

DLIR agrees with the legislature that early intervention and participation in a Vocational Rehabilitation (VR) program can contribute greatly to a successful return

to work for injured employees. This is in-line with the intent of Section 386-25, HRS, to assist the injured employees to return to the active labor force as quickly as possible and to restore the employees' earning capacity as nearly as possible to the level they earned at time of injury in a cost-effective manner.

DLIR appreciates the intent of this measure to provide a streamlined process to assist these injured employees back to the labor force. We offer the following comments:

- The VR program as administered in Chapter 386, HRS, is not a mandatory program. This is consistent with the language on page 4, lines 11-12. However, on page 4, line 14, the measure proposes to change "may" select to "shall" select making it a mandatory requirement.
- On page 4, lines 18-19, specifies the injured employee shall select a certified provider within thirty days. Clarification is needed to identify from when the thirty days begin.
- On page 7, beginning on line 4(e), the proposal states that a VR Provider shall automatically approve VR services by determining if an injured employee will require VR services to return to work. It is not clear if this is meant to occur at the time the referral/selection of a VR Provider is completed or on the submission of the completed Initial Evaluation report pursuant to section 386-25(d), HRS. The Initial Evaluation report determines the feasibility of the injured employee to receive VR services.



JOSH GREEN, M. D.
GOVERNOR
KE KIA'ĀINA

BRENN A. HASHIMOTO
DIRECTOR
KA LUNA HO'OKELE

SYLVIA LUKE
LT. GOVERNOR
KA HOPE KIA'ĀINA

BRIAN K. FURUTO
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
KA 'OIHANA HO'OMŌHALA LIMAHANA
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

Statement of
BRENN A. HASHIMOTO
Director, Department of Human Resources Development

Before the
HOUSE COMMITTEE ON LABOR
Thursday, February 6, 2025
9:00 AM
State Capitol, Conference Room 309

In consideration of
HB 423, RELATING TO WORKERS' COMPENSATION

Chair Sayama, Vice Chair Lee, and members of the committee.

The Department of Human Resources Development (HRD) is in **support** of HB 423.

The purpose of HB 423 is to:

- Clarify the process for selecting a certified provider of rehabilitation services.
- Require providers to automatically approve vocational rehabilitation services for an injured employee if those services will likely be required for suitable gainful employment.

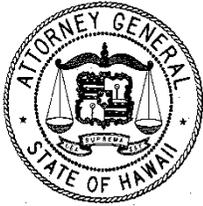
HRD appreciates the proactive approach being taken to ensure an injured employee's vocational process is being addressed in a timely and cost-effective manner. Adding clarification to the vocational rehabilitation statute and including language like that of Hawai'i Administrative Rules (HRA) §12-14-23(c), regarding an employee's selection of a vocational provider within 30 days after notification, helps solidify the responsibilities of the injured worker and employer.

Because delays in vocational processes also relate to timeliness of submittal of vocational plans which can draw out temporary total disability (TTD) benefits, HRD recommends additional language changes to the bill to align with the Code of Federal Regulations (CFR), 34 CFR §361.45(e) which reads, "The individualized plan for employment must be developed as soon as possible, but not later than 90 days after the date of determination of eligibility, unless the State unit and the eligible individual agree to the extension of that deadline to a specific date by which the individualized

plan for employment must be completed.” In congruence, HRD proposes the following additional revisions to the proposed renumbered §386-25 (f):

“(f) A provider shall file the employee’s plan with the approval of the employee no later than 90 days after the provider submits an initial evaluation report, unless the employer, provider and injured worker are agreeable to an extension of that deadline to a specific date by which the vocational plan must be completed. Upon receipt of the plan from the provider, an employee shall have ten days to review and sign the plan. The plan shall be submitted to the employer and the employee and be filed with the director within two days from the date of the employee's signature. A plan shall include a statement of the feasibility of the vocational goal, using the process of:...”

We are available to answer any questions or provide further information as needed.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 423, RELATING TO WORKERS' COMPENSATION.

BEFORE THE:

HOUSE COMMITTEE ON LABOR

DATE: Thursday, February 6, 2025 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Anne E. Lopez, Attorney General, or
William N.K. Crowell, Deputy Attorney General
Lauren A. Sugai, Deputy Attorney General

Chair Sayama and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill amends the workers' compensation process for an injured employee to select a certified provider of vocational rehabilitation services under section 386-25, Hawaii Revised Statutes (HRS), and it also requires a provider to automatically approve an injured employee for vocational rehabilitation services if the provider determines that the injured employee will likely require those services to return to suitable gainful employment.

The amendments to section 386-25, HRS, in this bill inadvertently create an inconsistency within the first two sentences of section 386-25(c), HRS. Namely, the first sentence of subsection (c), page 4, lines 11-12, provides, "Enrollment in a rehabilitation plan or program **shall not** be mandatory" (emphasis added). And the second sentence of subsection (c), page 4, lines 13-15, makes it mandatory by providing, "The injured employee [~~may~~] **shall** select a certified provider of rehabilitation services" (emphasis added).

For purposes of clarity, we recommend that the first two sentences of section 386-25(c), HRS, page 4, lines 11-15, be amended to add the wording "If the injured employee elects to enroll in a rehabilitation plan or program," so that it reads:

Enrollment in a rehabilitation plan or program shall not be mandatory and the approval of a proposed rehabilitation plan or program by the injured employee shall be required. ~~[The]~~ If the injured employee elects to enroll in a rehabilitation plan or program, the injured employee ~~[may]~~ shall select a certified provider of rehabilitation services

This bill also amends section 386-25, HRS, to require an injured employee to select a certified provider of rehabilitation services "within thirty days." Page 4, lines 15 and 19. However, the bill does not specify when the thirty-day period begins. To ensure clarity, we recommend explicitly specifying when the time limit starts.

We respectfully ask this Committee to consider the recommended amendments. Thank you for the opportunity to testify.



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison H. Ueoka
President

TESTIMONY OF MILIA LEONG

COMMITTEE ON LABOR
Representative Jackson D. Sayama, Chair
Representative Mike Lee, Vice Chair

Thursday, February 6, 2025
9:00 a.m.

HB 423

Chair Sayama, Vice Chair Lee, and members of the Committee on Labor, my name is Milia Leong, Executive Claims Administrator for HEMIC Insurance Managers, Inc. and the Workers' Compensation Chair for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** this bill. Providing a specific timeline for selection of a rehabilitation counselor will avoid any unnecessary delays in the vocational rehabilitation process and ensures the injured workers timely return to gainful employment.

Thank you for the opportunity to testify.



To: The Honorable Jackson D. Sayama, Chair
The Honorable Mike Lee, Vice Chair
House Committee on Labor

From: Mark Sektan, Vice President

Re: **HB 423 – Relating to Workers’ Compensation**
APCIA Position: SUPPORT

Date: Thursday, February 6, 2025
9:00 a.m., Conference Room 309

Aloha Chair Sayama, Vice Chair Lee and Members of the Committee:

The American Property Casualty Insurance Association (APCIA) is pleased to **support** HB 423 which will streamline the process for vocational rehabilitation services.

The APCIA is the primary national trade association for home, auto, and business insurers and promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

HB 423 ensures injured workers get the appropriate care in a timely manner by providing a specific timeline for selection of a rehabilitation counselor. This will avoid any unnecessary delays in the vocational rehabilitation process and ensures the injured workers timely return to gainful employment.

For these reasons, APCIA asks the committee to **SUPPORT** this bill in committee.