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TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, February 5, 2008
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2538 – RELATING TO WORKERS
COMPENSATION.**

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),
testifying on behalf of the Department of Commerce and Consumer Affairs
(“Department”). The Department supports this bill.

The purpose of this bill is to increase the limitation on charges for medical care,
services, and supplies for injured employees to 120% of the Medicare Resource Based
Relative Value Scale system applicable to Hawaii effective January 1, 2009. The
current limitation of 110% in Hawaii Revised Statutes (“HRS”) § 386-21(c) was adopted
in 1995.

The workers’ compensation medical fee schedule is also referenced in the
Insurance Code in HRS § 431:10C-308.5 and applies to medical treatment rendered in
motor vehicle insurance cases.

The Department believes that the increase is justified and is necessary to ensure
that employees and motor vehicle insurance claimants receive the necessary medical
care and services for their injuries.

We thank this Committee for the opportunity to present testimony on this matter
and respectfully request your favorable consideration.

LINDA LINGLE
GOVERNOR



MARIE C. LADERTA
DIRECTOR

CINDY S. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813

February 4, 2008

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR
SENATE COMMITTEE ON WAYS AND MEANS
For Hearing on Tuesday, February 5, 2008
9:00 a.m., Conference Room 016

BY

MARIE C. LADERTA, DIRECTOR

Senate Bill No. 2538
Relating to Workers' Compensation

TO CHAIR NORMAN SAKAMOTO AND MEMBERS OF THE COMMITTEES:

The purpose of S.B. No. 2538 is to amend Section 386-21(c) to increase the allowable charges for medical care, services, and supplies from one hundred ten per cent to one hundred twenty percent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

The Department of Human Resources Development is in favor of increasing the reimbursement rate for those health care provider specialties who have either left the islands or who have declined to treat individuals who suffered work related injuries. We are opposed, however, to an across-the-board increase as there are health care providers who are already adequately compensated for their services and for those who charge more for there services for work related injuries than they do for their private patients.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marie C. Laderta".

MARIE C. LADERTA



Hawaii State Chiropractic Association

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February 5, 2008

The Senate
Committee on Judiciary & Labor
Chair Sen. Brian Taniguchi
Vice Chair Sen. Clayton Hee

Testimony for hearing
Date: Tuesday, February 5, 2008
Time: 9:00 am
Conference Room 016

Chair Taniguchi, Vice Chair Hee, and members of the committee

My name is Gary Saito and I am the President and Executive Director of the Hawaii State Chiropractic Association. We are in **support of SB 2538** but wish to make some comments.

While we would prefer that the Hawaii work comp fee scheduled be unhooked from the Medicare fee schedule altogether, we support the intent of this bill because it at least tries to respect the expertise and qualifications of our many treating physicians and other healthcare practitioners.

The Medicare fee schedule is an inadequate reimbursement system for work comp for the following reasons:

1. Medicare is not an injury-based health delivery system
2. It is not a system meant for acute care
3. It does not fairly compensate practitioners for their time and treatment of injured workers
4. It does not have reporting requirements as are mandated in the work comp system; the 10% over Medicare rates is not an adequate compensation for the time required in the treatment of injured workers.

The Hawaii work comp fee schedule should never have been married to the Medicare fee schedule in the first place and many voices expressed this opinion 10 years ago. The growing failure of the work comp system to deliver quality care with accessibility to care demonstrates that the reimbursement component of the system is a failure. That so many doctors have abandoned the treatment of injured workers is a statement that reimbursements are not keeping up with the cost of living and the cost of doing business in Hawaii.

An LRB study determined that compensation should have been 135% of Medicare six years ago. With the rise in the cost of living over the last 6 years and with the Medicare fee schedule staying the same or decreasing in that time, a fair compensation should be more than that in today's dollars.

"Notice" contained in the Chiropractic Section of the Yellow Pages for the Big Island

June 20, 2005

Any year that the Medicare fee schedule drops 10% across the board as it has threatened to do the last 2 consecutive years, 120% of Medicare will only be equivalent to what we have today, a reimbursement system that isn't keeping up with the cost of doing business in Hawaii.

Thank you for allowing us to provide comment on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Saito". The signature is stylized with a large initial "G" and a long, sweeping underline.

Gary Saito, DC
President and ED, HSCA

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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February 4, 2008

TO: Senator Brian Taniguchi
Chair, Committee on Judiciary & Labor
Hawaii State Capitol, Room 219

Via Email: testimony@capitol.hawaii.gov

FROM: Anne T. Horiuchi, Esq.
S.B. 2538 Relating to Workers Compensation
Hearing Date: Tuesday, February 5, 2008 at 9:00 a.m.

Dear Chair Taniguchi and Members of the Committee on Judiciary & Labor:

I am Anne Horiuchi, testifying on behalf of the American Insurance Association (AIA). AIA represents approximately 350 major insurance companies that provide all lines of property and casualty insurance and write more than \$123 billion annually in premiums. AIA members supply 23 percent of the property/casualty insurance sold in Hawaii. The association is headquartered in Washington, D.C., and has representatives in every state.

S.B. 2538 increases the workers' compensation fee schedule from one hundred ten to one hundred twenty percent of the fees prescribed in the Medicare Resource Based Relative Value Scale system. AIA opposes this measure as unnecessary, given the ability of the Director of the Department of Labor & Industrial Relations to make determinations of the charges and to adopt fee schedules based upon those determinations. We respectfully request that S.B. 2538 be held.

Thank you very much for this opportunity to submit testimony.

LATE TESTIMONY



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

Tuesday, February 5, 2008
9:00 a.m.

SB 2538

Chair Taniguchi, Vice Chair Hee, and members of the committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. 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 60% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council opposes S.B. 2538. S.B. 2538 increases the medical fee schedule reimbursement from 110% of Medicare to 120% of Medicare. We believe this bill is unnecessary because the Director of the Department of Labor and Industrial Relations has the ability to increase certain codes when necessary. In fact, in 2006, the department adjusted fees for approximately 1,300 CPT codes. In addition, an across the board increase will also affect personal injury protection reimbursement rates in motor vehicle insurance and the Insurance Commissioner has similar powers to increase certain codes when appropriate. We estimate the increase in costs to personal injury protection under this bill will be 3.5%.

We respectfully request that S.B. 2538 be held.

Thank you for the opportunity to testify.