



**STATE OF HAWAII**

**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 9, 2009

To: The Honorable Karl Rhoads, Chair  
and Members of the House Committee on Labor and Public Employment

Date: Tuesday, February 10, 2009  
Time: 9:00 a.m.  
Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**Testimony in OPPOSITION**

to

**H.B. 1390 – Relating to Workers' Compensation**

**I. OVERVIEW OF CURRENT PROPOSED LEGISLATION**

House Bill 1390 proposes to amend section 386-21, Hawaii Revised Statutes ("HRS"), by increasing the charges for medical care, services and supplies to not exceed one hundred fifty per cent (150%) of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii, effective January 1, 2010.

**II. CURRENT LAW**

Currently, section 386-21, HRS, allows for charges for medical care, services and supplies to not exceed one hundred ten percent (110%) of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

**III. HOUSE BILL**

The Department opposes H.B. 1390 as written and offers the following comments:

1. The Department believes that if there is any increase, it should not be given across the board. The Department recognizes that there are health care providers who are already adequately compensated for their services, who would receive an unnecessary increase in allowable charges.

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2. The Department recognizes that any increase in reimbursement fees may result in additional costs and higher insurance premiums for employers. In 2008, the National Council on Compensation Insurance, Inc. estimated that an increase to 120% of Medicare would increase costs by only 0.6%, or \$3.1 million. Furthermore, any increase in the reimbursement rate for the State and other large employers who are self insured will result in a dollar-for-dollar increase in costs.

Further, over the last five years, insurance premiums have decreased by almost 50%, and a 10% increase in medical reimbursements should result in a minimal increase in premiums, since medical costs account for only 40% of total workers' compensation costs in Hawaii.

3. The Department recommends that H.B. 1390 should be clarified to ensure proper charges for medical services prior to January 1, 2010. For clarification, we recommend the following language in subsection 386-21(c), line 7, to read as follows:

“Effective January 1, 1997 through December 31, 2009, the charges shall not exceed one hundred ten percent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services, except as provided in this subsection. Effective January 1, 2010, and for each succeeding calendar year thereafter, the charges shall not exceed XXXX percent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii, as prepared by the United States Department of Health and Human Services, except as provided in this subsection.”

In summary, the Department opposes an across the board increase in allowable charges.

LINDA LINGLE  
GOVERNOR OF HAWAII



MARIE C. LADERTA  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 5, 2009

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
For Hearing on Tuesday, February 10, 2009  
9:00 a.m., Conference Room 309

BY

MARIE C. LADERTA, DIRECTOR

**House Bill No. 1390**  
**Relating to Workers' Compensation**

TO CHAIR KARL RHOADS AND MEMBERS OF THE COMMITTEES:

The purpose of H.B. No. 1390, 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 not more than one hundred fifty percent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii.

The Department of Human Resources Development is opposed 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 their services for work related injuries than they do for their private patients. The Department, however, acknowledges that this measure has merit and 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. But, given the current fiscal difficulties, it would not be prudent to pursue enactment at this time.

Respectfully submitted,

*Cindy S. Inouye*  
for MARIE C. LADERTA

ECD/vp

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LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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LAWRENCE M. REIFURTH  
DIRECTOR  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Tuesday, February 10, 2009  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1390 – RELATING TO WORKERS’  
COMPENSATION.**

TO THE HONORABLE KARL RHOADS, 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 offers the following comments on this bill.

The purpose of this bill is to increase the limitation on charges for medical care,  
services, and supplies for injured employees to 150% of the Medicare Resource Based  
Relative Value Scale system applicable to Hawaii effective January 1, 2010. 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 it is essential for employees and motor vehicle  
insurance claimants to receive the necessary medical care and services for their  
injuries. Medical providers deserve to be compensated at a reasonable rate. However,

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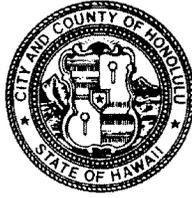
the Department has not had the opportunity to evaluate the potential impact on workers' compensation and motor vehicle insurance rates.

We thank this Committee for the opportunity to present testimony on this matter.

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 10<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813

MUFI HANNEMANN  
MAYOR



KENNETH Y. NAKAMATSU  
DIRECTOR

February 10, 2009

The Honorable Karl Rhoads, Chair  
and Members of the Committee on Labor & Public Relations  
State House of Representatives  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

RE: HOUSE BILL NO. 1390 RELATING TO WORKERS' COMPENSATION

The City and County of Honolulu opposes House Bill No. 1390, amending Section 386-21 of the Hawaii Workers' Compensation Law by increasing the reimbursement rate for medical providers from 110% to 150% of the Medicare Resource Based Relative Value Scale system. In 1995, the Legislature amended this section of the law to reduce excessive reimbursement rates and establish a comprehensive, nationally recognized system of charges. The law further established procedures for the Director of the Department of Labor and Industrial Relations to adjust the schedule to ensure reasonable allowances for reimbursement.

Changes to Section 386-21 that were enacted by 1995 Legislature contributed to hundreds of millions of dollars in workers' compensation costs being saved over the last 12 years. The magnitude of the savings can be assessed using data from the State's Department of Labor and Industrial Relations Workers' Compensation Data Book, published annually (see Attachment I). In short, statewide workers' compensation costs 3 years prior to the reform averaged \$331 million annually. Workers' compensation costs for the 12 years immediately following the reform averaged \$253 million annually; a \$78 million annual savings. Put in the proper perspective, over the last 12 years the State of Hawaii has saved \$936 million in workers' compensation costs as a result of the changes made by the 1995 Legislature.

Now in 2009, the Twenty-fifth Legislature is proposing changes to the Hawaii Workers' Compensation Law that will inevitably increase the cost of workers' compensation in the State. In times of economic turmoil requiring fiscal austerity and innovative solutions, it is most disturbing to see bills introduced by this Legislature that further add to the already critical financial crises in the State.

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The Honorable Karl Rhoads  
February 10, 2009  
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We respectfully urge your committee to file House Bill No. 1390. We do not believe that there is a need to change the reimbursement rate for the entire workers' compensation medical fee schedule. With proper justification, current law allows the medical community to show the Director of Labor and Industrial Relations where, administratively, adjustments can be made without changing Section 386-21, HRS.

Sincerely,



*for* KEN Y. NAKAMATSU  
Director of Human Resources

Attachment

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**STATEWIDE WORKERS' COMPENSATION COSTS BY TYPE OF PAYMENT**

Type of Payment	2000	2001	2002	2003	2004	2005	2006	2007	Type
TTD	55,312,588	62,586,914	65,056,903	67,654,807	63,706,668	59,067,148	54,967,864	56,919,048	TTD
TPD	2,651,756	3,043,394	2,900,452	3,241,339	3,184,548	3,109,906	2,625,563	2,705,692	TPD
PTD	15,507,928	15,118,576	18,395,265	17,626,114	18,093,822	15,955,797	18,599,904	16,765,532	PTD
PPD	57,260,955	57,875,459	65,159,217	68,803,178	69,515,306	66,399,667	64,195,980	63,054,843	PPD
Death	1,962,684	2,735,802	2,360,809	2,325,041	2,148,014	2,010,782	2,182,528	3,052,391	Death
Disfigurement	1,309,482	1,357,202	1,562,803	1,625,475	1,524,271	1,314,094	1,480,269	1,263,750	Disf
Voc Rehab	5,629,397	5,802,764	6,325,020	6,432,282	6,114,837	5,063,253	4,868,366	4,561,823	VR
Medical	91,184,757	103,303,676	105,926,606	106,912,209	106,766,183	97,638,645	93,394,364	98,513,146	Med
Attendant Services	539,633	217,365	140,180	301,787	236,375	219,851	370,655	457,629	AS
Total	231,359,180	252,041,152	267,827,255	274,922,232	271,290,024	250,779,143	242,685,493	247,293,854	Total

Workers' Compensation Reform began July 1, 1995. Major changes were Medical Fee Schedule (Medicare plus 10%), treatment limits, second injury limits on PPD and part-time workers.

Type of Payment	1992	1993	1994	1995	1996	1997	1998	1999	Type
TTD	75,124,541	83,443,021	80,281,234	70,875,583	61,054,623	57,366,809	53,356,078	51,550,709	TTD
TPD	2,335,548	2,769,212	3,072,057	2,774,293	2,829,674	2,825,736	2,878,552	2,743,336	TPD
PTD	13,600,845	11,232,499	19,763,997	15,497,510	17,618,587	16,716,542	15,714,253	15,830,200	PTD
PPD	69,506,346	76,270,234	81,865,987	95,125,484	93,619,941	72,453,667	64,909,092	57,124,045	PPD
Death	2,765,124	2,392,562	2,632,183	2,789,579	2,814,023	2,899,119	2,238,102	2,395,396	Death
Disfigurement	1,763,162	1,869,215	1,681,428	1,759,164	1,942,172	1,808,428	1,384,551	1,341,929	Disf
Voc Rehab	6,639,072	7,866,683	7,892,705	7,871,615	6,574,004	6,179,012	5,534,403	5,359,001	VR
Medical	115,960,185	137,740,829	145,500,111	129,125,665	101,664,903	94,424,669	87,019,208	85,513,448	Med
Attendant Services	307,956	178,355	390,071	303,969	376,739	241,389	190,286	198,250	AS
Total	288,002,779	323,762,610	343,079,773	326,122,862	288,494,666	254,915,371	233,224,525	222,056,314	Total

Source: Workers' Compensation Data Book, State of Hawaii, Department of Industrial Relations, Research and Statistics Office (1992 – 2007)

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THE HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads,  
Rep. Kyle Yamashita, Vice Chair

Date: Tuesday, February 10, 2009

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

TESTIMONY OF ILWU LOCAL 142

RE: HB 1390, RELATING TO WORKERS' COMPENSATION

Thank you for the opportunity to present testimony regarding this bill. We support the passage of HB 1390.

In recent years, the problem of obtaining medical care for injured workers has become serious, and it shows no signs of abating. Physicians are reluctant to accept industrial injury claims first because the reimbursement is in many cases lower than under regular prepaid health insurance and because the requirements for medical treatment plans, and other reporting are onerous. Technical requirements are often manipulated to make approval of treatment exceedingly difficult, making doctors unwilling to see this class of patients.

HB 1390 addresses the former of these problems by authorizing payments for medical care to increase from 110% to 150% of the Medicare Resource Based Relative Value Scale. This modest correction should be of significant value in encouraging more physicians to take on industrial accident claims.

There may still be some who suggest that raising medical costs will trigger an increase in employer premiums for workers' compensation insurance. However, in the larger, systemic picture, if quality medical care is not furnished injured workers, disability will be prolonged. In a certain class of cases, where prompt medical treatment is necessary for recovery, there may also be increases in the extent of permanent disability because prompt attention was not given to injuries that should have been addressed earlier. Thus, there is good reason to believe that making medical care more accessible through a modest increases in medical reimbursement will in fact help control and reduce costs overall.

For these reasons, we support the enactment of HB 1390.

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Hawaii Medical Association  
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To: House Committee on Labor & Public  
Employment  
Rep. Karl Rhoads, Chair  
Rep. Kyle T. Yamashita, Vice Chair

From: Hawaii Medical Association  
Gary A. Okamoto, MD, President  
Philip Hellreich, MD, Legislative Co-Chair  
Ron Kienitz, MD, Workers' Compensation Chair  
April Donahue, Executive Director  
Richard C. Botti, Government Affairs  
Lauren Zirbel, Government Affairs

Re: HB 1390 RELATING TO WORKERS' COMPENSATION

Chairs & Committee Members:

Hawaii Medical Association supports this measure.

In 1995, a comprehensive package of legislative proposals was made to reform workers' compensation in response to rising insurance premiums. The Legislature couldn't agree on the more fair and meaningful reforms, so the medical fee schedule was arbitrarily slashed by 54%, basing reimbursement on Medicare plus 10%. Hawaii's medical fee schedule fell to fifth lowest in the nation, 18% below the national median. Counter-intuitively, costs per case continued to rise and soon exceeded pre-1995 levels.

The probable reason for this is the impact that inadequate reimbursement had on restricting access to care. A critical element in treating workers' compensation cases is immediate access to comprehensive medical care and management. Any delays tend to make the injury more costly, even to the extent of permanent impairments and disabilities. This also affects the time period the employee is off work, creating greater costs to employers for temporary disability payments.

The legislature must recognize that the practice of medicine is also a business and therefore follows the same economic rules under which any business operates. In short, no business or profession can exist if they are forced to take a loss on sales or services. Predictably, there has been a steady exodus of physicians willing to treat injured workers. Because no-fault automobile injuries are reimbursed according to the workers' compensation fee schedule, these patients also have been having an increasingly difficult time receiving care for their injuries. The situation has finally reached crisis proportion as demonstrated by a Hawaii Medical Association survey indicating that over 65% of doctors that had previously taken these cases now refuse to do so. It is now extremely common that physicians refuse care of these injuries even to their established patients. Straub Hospital and Clinic is perhaps the largest example of this.

We have come to the legislature regularly to correct this problem since Act 234 was passed in 1995 asking for recognition that injured workers and their families are suffering as a result of low reimbursements impeding access to medical care. We hope that now the legislature finally understands this to be true and takes action to correct the situation.

Thank you for the opportunity to provide this testimony

PLEASE DELIVER TO:

LAB Committee

2/6/2009

9:00 a.m.

Room 309

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**yamashita1- Kathy**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 05, 2009 10:58 AM  
**To:** LABtestimony  
**Cc:** daniel.vicars@yahoo.com  
**Subject:** Testimony for HB1390 on 2/10/2009 9:00:00 AM

Testimony for LAB 2/10/2009 9:00:00 AM HB1390

Conference room: 309  
Testifier position: support  
Testifier will be present: No  
Submitted by: Daniel B. Vicars, D.C.  
Organization: Discover Chiropractic Hawaii  
Address: 220 Lalo Street Suite 2B Kahului HI 96732  
Phone: 808-873-9392  
E-mail: [daniel.vicars@yahoo.com](mailto:daniel.vicars@yahoo.com)  
Submitted on: 2/5/2009

Comments:

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# Hawaii State Chiropractic Association

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ph: (808) 926-8883 fx: (808) 926-8884

February 5, 2009

The House of Representatives  
Committee on Labor & Public Employment  
Chair Rep. Karl Rhoads  
Vice Chair Rep Kyle Yamashita

Testimony for hearing  
Date: Tuesday, February 10, 2009  
Time: 9:00 am  
Conference Room 309

Chair Rhoads, Vice Chair Yamashita, 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 HB 1390** and wish to make the following 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 at least it 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. Medicare requires little paperwork compared with mandated reporting requirements in work comp that can be complex and time-consuming for providers and their staff.
3. The Medicare fee schedule, therefore, poorly compensates practitioners to manage a work comp case.
4. The reimbursement rate of 110% over Medicare currently in our statutes does not sufficiently reimburse providers for the coordination of care 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 ordered by the legislature seven years ago to look at the impact of changing the existing work comp fee schedule to 110% of Medicare explicitly determined that compensation should have been much higher.

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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 150% of Medicare in today's dollars.

Every year that the Medicare fee schedule lowers its reimbursement rate, providers fall further and further behind in receiving adequate compensation. Years ago, when the laws was enacted to tie work comp reimbursements to the Medicare system, we predicted that there would be an exodus of providers in the work comp system due to inability to maintain a practice with dwindling dollars, and, today, that outcome is a well-known and painful fact. We need a work comp reimbursement rate that respects the work of the providers and also keeps 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 fluid and cursive, with a large loop at the beginning and a long tail at the end.

Gary Saito, DC  
President and ED, HSCA

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:  
GARY M. SLOVIN  
CHRISTOPHER G. PABLO  
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meito@goodsill.com

**MEMORANDUM**

**TO:** Representative Karl Rhoads  
Chair, House Committee on Labor & Public Employment  
Via e-mail: LABtestimony@Capitol.hawaii.gov

**FROM:** Anne Horiuchi

**DATE:** February 9, 2009

**RE:** **H.B. 1390 Relating to Workers' Compensation**  
**Hearing on Tuesday, February 10, 2009 at 9:00 a.m., Room 309**

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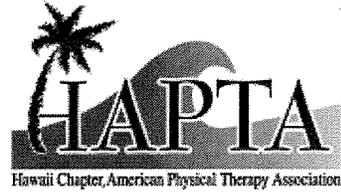
Dear Chair Rhoads and Members of the Committee on Labor & Public Employment:

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. All AIA news releases are available at [www.aiadc.org](http://www.aiadc.org).

H.B. 1390 increases the fee schedule of compensation for medical care in workers' compensation cases from 110% to 150% of the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services.

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 H.B. 1390 be held.

Thank you very much for the opportunity to submit testimony on this measure.



**Testimony by:**  
**Derrick Ishihara, PT**

**HB 1390, Relating to Workers' Compensation**  
**House LAB, February 10, 2009**  
**Room 309, 9:00 am**

**Position: Strong Support**

Chair Rhoads and Members of the House LAB Committee:

I am Derrick Ishihara, P.T., a small business owner/physical therapist and member of HAPTA's Legislative Committee. The Hawaii Chapter – American Physical Therapy Association (HAPTA) is comprised of 300 member physical therapists and physical therapist assistants employed in hospitals and health care facilities, the Department of Education and Department of Health systems, and private practice. Our members represent Hawaii at the national American Physical Therapy Association and are delegates for Pediatrics, Women's Health, Parkinson's Disease and other issue sections. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum function from neuromusculoskeletal injuries and impairments.

Appreciation is expressed for the recognition of the inadequate reimbursement for health services and its impact on health care providers and more importantly, the injured worker. Often times, the injured worker must disrupt care as well as the relationship with the treating physician who no longer accepts WC cases. It then becomes a challenge for the injured worker to find physicians who are willing to accept WC cases.

HAPTA strongly supports this measure, which states that charges shall not exceed 150% of fees stated in the Medicare Resource Based Relative Value Scale. According to the 2007 LRB study of this issue, 63 CPT codes, mostly Evaluation and Management codes for physicians, were evaluated. Most of these codes are no longer based on Medicare + 10%. Most of the codes have now been updated by the DLIR to a Supplemental fee schedule because according to the DLIR, the Medicare Medical Fee Schedule "...may not be keeping pace with the cost of the services being rendered" The study found that the CPT codes reimbursed under the supplemental fee schedule averaged 136% of MC. Further, in 1998, the LRB recommended 125% - 135% of the Medicare fee schedule.

Physical Therapists (PT) are an integral part of the rehabilitation of injured workers, working closely with physicians. The DLIR supplemental fee schedule for physician-related CPT codes does not apply to the PT codes. HMSA now pays much less than WC does for those codes. HMSA dropped reimbursement sharply for PT codes soon after WC reduced fees in 1995.

Your strong support of this measure is urged. It will ultimately ensure the availability of the network of care needed to return the injured worker to the workplace safely and efficiently. I may be reached at 593-2610 if there are any questions. Thank you for the opportunity to present testimony.

**HOUSE COMMITTEE ON  
LABOR AND PUBLIC EMPLOYMENT**

February 10, 2009

House Bill 1390 Relating to Workers' Compensation

Chair Rhoads and members of the House Committee on Labor and Public Employment, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders. State Farm opposes House Bill 1390 Relating to Workers' Compensation.

Auto insurance coverages are based in part upon the workers compensation fee schedule which is the subject of this measure. Any increases in the fee schedule will result in increased premiums for State Farm insureds. We believe that this measure will result in an increase in personal injury protection (PIP) costs of approximately 10%. In an environment where consumers are trying to save and cut costs this measure does exactly the opposite. The impact could be to drive those on the edge economically to drive uninsured. That is a situation that is unacceptable to all drivers. We strongly recommend that this committee carefully consider the repercussions of such an increase on insured drivers and the possibility that unintended consequences will result.

Thank you for the opportunity to present this testimony.

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Telephone (808) 525-5877  
Facsimile (808) 525-5879

**Alison Powers**  
Executive Director

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**TESTIMONY OF ALISON POWERS**

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HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Representative Karl Rhoads, Chair  
Representative Kyle T. Yamashita, Vice Chair

Tuesday, February 10, 2009  
9:00 a.m.

**HB 1390**

Chair Rhoads, Vice Chair Yamashita, 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** H.B. 1390. This bill changes the medical fee schedule reimbursement from 110% of Medicare to 150% 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 respectfully request that H.B. 1390 be held.

Thank you for the opportunity to testify.

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February 6, 2009

Chairman Rep. Karl Rhoads  
Vice Chairman Rep. Kyle Yamashita  
Committee on Labor and Public Employment

RE: Testimony in Support of the intent of HB1390, Relating to Workers' Compensation  
Hearing, Tuesday, February 10, 2009 9:00 AM  
Conference Room 309

FROM: James A. Pleiss, DC  
2045 Main Street, Wailuku, Maui, Hawaii 96793  
808-244-0312

Dear Chairman Rhoads, Vice Chair Yamashita, and Members of the Committee:

Thank you for the opportunity to testify in support of the intent HB1390 which increases the Workers' Compensation Medical Fee Schedule from 110% to 150% of the Medicare Resource Based Relative Value Scale.

As you know, in the mid 1990's the Workers' Compensation Medical Fee Schedule was changed to 110% of the Medicare Fee Schedule. Since that time, re-imburement rates based on the 110% of Medicare have for the most part stayed the same, gone up slightly and in many cases have actually gone down. It goes without saying that the cost of living in Hawaii has gone up significantly since the mid 1990's. 110% of Medicare has not kept pace with the increases of the cost of living and the cost of doing business in the State of Hawaii.

On Maui, in my 26 years of experience, the majority of physicians here do not accept Workers' Compensation patients not only because their reimbursement rates for other insurance is higher, but there is significantly more paperwork and burdensome rules and regulations associated with treatment of patients in the Workers' Compensation system. In my conversations with them, they do not want the hassle of treating Workers' Compensation patients simply because it based on 110% of Medicare, and with the additional staff required to adjudicate the claims, it is not worth their time.

The treatment of injured workers is inherently more difficult and usually requires a multidisciplinary approach. When many providers do not participate, it makes it extremely difficult for those that do to provide the best overall case management and referrals to specialists to reach the goal of successfully returning the injured worker back to work.

The Medicare Fee Schedule is not based on the treatment of injuries such as those that occur in the Workers' Compensation system. It is designed for senior citizens or other disabled individuals who have health issues that need treatment. The Medicare Fee

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Schedule is also tied into federal budgets and may go up or down based on issues that are not related to the treatment of injured workers.

At a minimum, the reimbursements for the treatment of injured workers should be 150% of Medicare. However, since Medicare is not an injury reimbursement system, my suggestion would be to base the reimbursements in Workers' Compensation to what 150% of Medicare is for 2009, but do not tie it to the actual Medicare Fee Schedule that goes up or down each year. Rather, set the fee schedule to 150% of Medicare for 2009, then allow the Department of Labor and Industrial Relations to review the fee schedule every 2 years as they currently do, and make recommendations as they see fit. This way, the rationale for reimbursements for the treatment of injured workers will be based locally in Hawaii instead of being tied with the federal Medicare system.

I also support the testimony of the Hawaii State Chiropractic Association.

Thank you for the opportunity to testify before your committee in support of the intent of HB1390.

Sincerely

James A. Pleiss, DC