

NEIL ABERCROMBIE GOVERNOR

SHAN S. TSUTSUI

STATE OF HAWAII OFFICE OF THE DIRECTOR DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SEVENTH LEGISLATURE Regular Session of 2013

> Thursday, April 4, 2013 9 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 152, H.D. 1, S.D. 1 and Proposed S.D. 2 – RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES.

TO THE HONORABLE DAVID IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department").

The Department defers to Department of Labor & Industrial Relations ("DLIR") on the merits of this bill and submits the following comments.

The purpose of the S.D. 1 is to amend Hawaii Revised Statutes ("HRS") § 386-21(c) by increasing the fee schedule of compensation for medical care, services, and supplies in workers' compensation cases from 110 to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii ("Medicare fee schedule") effective January 1, 2014. The intent of the S.D. 1 is to improve access and availability of medical providers to treat workers' compensation claimants.

Under current law, the medical fee schedule for motor vehicle insurance cases is tied to the workers' compensation supplemental fee schedule, per HRS § 431:10C-

KEALI`I S. LOPEZ DIRECTOR

JO ANN M. UCHIDA TAKEUCHI DEPUTY DIRECTOR

H.B. No. 152, H.D. 1, S.D. 1 and Prop. SD2 DCCA Testimony of Gordon Ito Page 2

308.5. This was intended to reduce motor vehicle insurance premiums and to provide administrative efficiency.

The definition of "medical fee schedule" in HRS § 431:10C-103 refers to the Medicare Resources Based Relative Value Scale System applicable to Hawaii, entitled "Workers' Compensation Supplemental Medical Fee Schedule".

HRS § 431:10C-308.5(a) defines the term "workers' compensation supplemental medical fee schedule" as "the schedule adopted and as may be amended by the director of labor and industrial relations for workers' compensation cases under chapter 386, establishing fees and frequency of treatment guidelines."

As currently drafted, the S.D. 1 will also likely result in an increase in workers compensation insurance premiums and may impact motor vehicle insurance rates.

The Proposed S.D. 2 requires the Auditor to study the workers' compensation system fee schedule, with a report and proposed legislation due to the Legislature for the 2014 regular session. The Department takes no position on the Proposed S.D. 2.

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





BARBARA A. KRIEG DIRECTOR

LEILA A. KAGAWA DEPUTY DIRECTOR

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

April 3, 2013

TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

For Hearing on Thursday, April 4, 2013 9:00 a.m., Conference Room 211

ΒY

BARBARA A. KRIEG DIRECTOR

House Bill No. 152, H.D. 1, S.D. 1 Relating to Workers' Compensation Medical Fee Schedules

TO CHAIRPERSON DAVID IGE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 152, H.D. 1, S.D. 1.

The purpose of H.B. 152, H.D. 1, S.D. 1, is to increase maximum allowable medical fees under workers' compensation to 130 percent of the Medicare Resource Based Relative Value Scale, effective July 1, 2013.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, DHRD appreciates the intent of this bill, but is concerned about its significant cost implications on State funds appropriated for workers' compensation.

We are aware that more physicians and medical providers are opting not to accept workers' compensation patients due to a variety of factors, including the limits on payments allowed under the statute and the administrative burdens of providing treatment to a claimant. This bill would provide a financial incentive for more providers to accept claimants as patients. We believe that having more physicians and medical

NEIL ABERCROMBIE GOVERNOR H.B. 152, H.D. 1, S.D. 1 April 3, 2013 Page 2

providers participating in workers' compensation would lead to more choices, better quality, and more timely provision of services to our injured workers.

However, the fiscal impact of the proposed 18% increase in the reimbursement for medical care, services, and supplies that fall under the Medicare fee schedule will be significant. Over the years, medical care has by far been the most expensive cost item in our workers' compensation program, consistently averaging at least 40% of our total costs. An across-the-board increase for services that fall under the Medicare fee schedule will drive our medical costs higher and will likely require an even greater increase in our HRD102 general fund appropriation to pay claims under Chapter 386. Since our WC allocation has remained unchanged at \$6,190,183 for several years, DHRD's budget request for the next fiscal biennium already requests an increase of \$457,000 for FY14 and \$545,000 for FY15 to cover additional anticipated costs—even without taking into account an 18% increase in the fee schedule. As applied to the \$2.6 million spent on medical costs in FY12, the proposed increase in medical expenses resulting from this bill would be an additional \$468,000 per fiscal year. We appreciate the Senate Judiciary and Labor Committee taking special note of our fiscal concerns in its committee report on this bill.

Finally, we share the concern raised by the Director of the Department of Labor and Industrial Relations (Director) in his January 28, 2013 testimony to the House Committee on Labor and Public Employment on H.B. 152 that "health care providers who are already adequately compensated for their services would receive an increase in allowable charges if the ceiling for charges were raised to 130% of Medicare." Section 386-21, HRS, authorizes the Director to issue a supplemental fee schedule if the director determines that an allowance for a specific service under Medicare is not reasonable. In that regard, and as a fiscally responsible alternative to an across-theboard increase in the fee schedule, we urge this committee to allow the Director to complete DLIR's process of updating parts of the WCMFS by adjusting reimbursement rates based upon surveys of prevalent charges.

AUDREY HIDANO DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS 830 PUNCHBOWL STREET, ROOM 321 HONOLULU, HAWAII 96813

www.hawaii.gov/labor Phone: (808) 586-8842 / Fax: (808) 586-9099 Email: dlir.director@hawaii.gov

April 4, 2013

- To: The Honorable David Ige, Chair, The Honorable Michelle Kidani, Vice Chair, and Members of the Senate Committee on Ways & Means
- Date: Thursday. April 4, 2013

Time: 9:00 a.m.

- Place: Conference Room 211, State Capitol
- From: Dwight Y. Takamine, Director Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 152 HD1 SD1 Relating to Workers' Compensation Fee Schedules

I. OVERVIEW OF PROPOSED LEGISLATION

DLIR prefers the language contained in the SD1 because it provides immediate relief and incentives for medical professionals to provide treatment to injured workers. However, the Department also recognizes the need to obtain more information about the workers' compensation medical system as contained in the proposed SD2. DLIR notes that in Section 1 of the proposed SD2 that (4) and (5) pertain to an issue not related to the medical fee schedule.

HB152HD1SD1 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 thirty (130%) percent of fees prescribed in the Medicare Resources Based Relative Value Scale system applicable to Hawaii, effective July 1, 2013.

The department favors immediate relief in the form of a percentage increase over the Medicare Resource Based Relative Value Scale as this is consistent with the intent of the statute that states in part, "<u>The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees.</u>" §386–21.

The insufficient reimbursement for the services and care of injured workers contributes to the shortage of doctors and healthcare service providers in many areas of the state, especially in rural areas.

H. B. 152, HD1 SD 1 April 4, 2013 Page 2

II. CURRENT LAW

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.

Section 386-21, HRS, also allows the Director to increase fees for specific services if the fees provided under Medicare are not reasonable. The Department may adjust reimbursement rates through Exhibit A of the Workers' Compensation Medical Fee Schedule Administrative Rules when surveys indicate that Medicare plus 10% is not sufficient reimbursement for health care treatment.

However, with over 10,000 codes in the Medicare system, the Department believes it was not the Legislature's intent to have the Director adjust all the codes via the Medical Fee Schedule and in keeping with the intent of the statute to ensure adequate services and care for injured workers at this point in time an increase in fees over the current 110% is appropriate.

III. COMMENTS ON THE HOUSE BILL

1. ACT 234, effective June 29, 1995, amended Section 386-21 to provide that charges for services shall not exceed 110% of Medicare Resource Based Relative Value Scale system. Over time, the reimbursement rates of providers have failed to keep pace with the higher costs of medical care, leading some physicians to opt out of providing treatment to injured workers in the workers' compensation system.

CPT Sections	1995 Medicare Average	2012 Medicare Average	Percentage Change	CPI-U ³ Change 1995-2011	CPI-U Medical Costs ⁴ 1995-2011
Surgery	\$522.38	\$548.17	5%		
Radiology	\$208.60	\$171.00	-18%		
Medicine	\$178.89	\$133.62	-25%	+45%	+55%
Eval & Mgmt	\$50.07	\$51.92	4%		
All CPT	\$355.25	\$347.36	-2%		

Hawaii Medical Fee Supplemental Schedule Average & Change in CPT ¹ 1995-2012 ²
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¹Current Procedural Terminology

² Data by DLIR's Research and Statistics Office

³Consumer Price Index, Bureau of Labor Statistics (BLS), U.S. Department of Labor (USDOL)

⁴ Consumer Price Index, Medical Care Costs Only, BLS, U.S. DOL

 The U.S. Department of Labor's Office of Workers' Compensation Program Medical Fee Schedule (OWCP) conversion factor (CF) for Hawaii was <u>143%</u> of Medicare in 2012, illustrating the need to increase charges beyond the 110% currently allowable. The 2013 Medicare and OWCP conversion factors are due to be released in May 2013.

Year	Medicare CF	OWCP ¹ CF	OWCP CF % over Medicare CF
2002	\$36.20	\$48.32	33.5%
2003	\$36.79	\$49.10	33.5%
2004	\$37.34	\$49.84	33.5%
2005	\$37.90	\$50.58	33.5%
2006	\$37.90	\$50.58	33.5%
2007	\$37.90	\$51.60	36.2%
2008	\$38.09	\$51.86	36.2%
2009	\$36.07	\$53.10	47.2%
2010	\$36.87	\$53.10	44.0%
2011	\$33.98	\$48.52	42.8%
2012	\$34.04	\$48.52	42.5%

Comparison of Medicare and OWCP Conversion Factors 2002-2012

¹ U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP) Medical Fee Schedule conversion factor used for only those medical services with a Relative Value Unit (RVU).

Conversion Factor (CF) – The conversion factor converts the relative value units into an actual dollar amount. The dollar multiplier (CF) is updated on an annual basis. For Medicare this factor is according to a formula specified by statute. The OWCP devises its own conversion factors (CF) based on program-specific data, and national billing data from other federal programs, state workers' compensation programs and the U. S. Department of Labor's Bureau of Labor Statistics consumer price index (CPI) data.

3. The Department is aware that any increase in reimbursement to medical providers may result in additional cost and higher insurance fee premiums for employers. The Department notes that from 2005 - 2013, Workers'

H. B. 152, HD1 SD 1 April 4, 2013 Page 4

Compensation premium levels have cumulatively decreased by over 50% (see chart below). This trend of decreasing premiums may be reversing, however, as evidenced by the slight rise in premium costs last year and the approval by the Insurance Commissioner for a 5.2% increase this year. DLIR notes that an analysis by the National Council on Compensation Insurance estimated the impact of increasing the reimbursement rate to 130% in 2014 would increase medical costs by 5.7% and overall costs in the workers' compensation system by 3%, or \$5.7 million. The total cost of Workers' Compensation cases processed in 2011, the last year for which data is available, was nearly \$247,000,000.

Year	Premium Level Change (%)
2005	-3.0
2006	-18.2
2007	-12.3
2007	3.9
2008	-19.3
2009	-11.6
2010	-4.1
2011	0.0
2012	3.6
2013	5.2
Total Decrease:	55.8%

4. The Department believes a reimbursement of 110% of Medicare to medical providers who treat injured workers <u>is inadequate</u>. The Department, however, notes that health care providers who are already adequately compensated for their services would receive an increase in allowable charges if the ceiling for charges were raised to 130% of Medicare.

The Department can and has adjusted reimbursement rates based upon surveys of prevalent charges when the surveys indicated reimbursement rates were higher than Medicare. Changes to reimbursement rates are made to the Department's Supplemental Fee Schedule known as Exhibit A of the Medical H. B. 152, HD1 SD 1 April 4, 2013 Page 5

Fee Schedule Administrative rules. The Department is currently in the process of updating parts of the Medical Fee Schedule.

The provision for a medical fee schedule in 386-21, HRS, permits the Director to adjust allowances for medical costs if the reimbursement rate is either not reasonable or not covered under the Medicare Resource Based Relative Value Scale System applicable to Hawaii. However, the Department does not believe the Legislature intended the Director to make a determination about the allowances of all 10,000 plus codes in the Medicare system. Moreover, the Department does not have either the medical expertise to make those decisions or the resources to undertake a survey of the 10,000 plus codes in the Medicare Resource Based Relative Value Scale System.



850 West Hind Drive Suite 201; Honolulu, Hawaii 96821 Phone: 377-5605 Fax: 377-5604 www.EastOahuPhysicalTherapy.com

Date: April 2, 2013

To: State Senate Ways & Means Committee

RE: HB152

To Mr. David Ige,

I am a physical therapist writing in support of HB152, HD1,SD1. This bill will bring our compensation for services rendered to those in the community to be on par with the professional services we deliver to our patients.

As health care professionals we work together with other medical services to assist the workers of Hawaii. We work to rehabilitate them as they overcome and prevent future injuries so that they can quickly return to being productive member of the work place and society.

If there are any questions or concerns, please contact me at (808) 377-5605 or via email at slingdpt@gmail.com.

Sincerely,

Shawna Yee, DPT, OCS Physical Therapist



Senate Committee on Ways and Means Thursday, April 4, 2013 9: 00 AM Room 211

RE: HB 152, HD1, SD1 Related to Workers' Compensation Medical Fee Schedules

Dear Honorable Chair Ige, Vice Chair Kidani, and members of the Senate Committee on Ways and Means. On behalf of the Hawaii Chapter, American Physical Therapy Association (HAPTA), we are in **STRONG SUPPORT** of HB152, related to workers' compensation medical fee schedules.

Injured workers in Hawaii are having increasing difficulty accessing medial care. Many physicians no longer accept workers' compensation patients. Although no formal survey has been done, estimates are that more than 80% of physicians in Hawaii no longer see workers' compensation patients. The few physicians that accept workers' compensation patients often have a long waitlist to get an appointment. This access to care problem delays treatment, and formal studies have shown that reduction in the time it takes to receive treatment improves a patient's outcome and prognosis. Therefore, improving access to care may expedite a patient's return to work and reduce long term cost to insurers.

We believe that the proposed increase in the fee schedule from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale is an important step toward a more comprehensive solution to the issues affecting physician acceptance of workers' compensation patients.

HAPTA is a non-profit professional organization serving more than 250 member Physical Therapists and Physical Therapist Assistants. Our mission is to be the principal membership organization that represents and promotes the profession of Physical Therapy in the State of Hawaii.

Mahalo,

Elyse Nakama, PT Legislative Committee Member



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 368



PETER A. GANABAN Business Manager Secretary-Treasurer

ALFONSO OLIVER President

JOBY NORTH II Vice President

TONI FIGUEROA Recording Secretary

THOMAS CATHCART Executive Board

JAMES DRUMGOLD JR. Executive Board

LEIMOMI JOHNSON

MARK MAGUSARA Auditor

MARK TRAVALINO Auditor

JOSEPH YAW Auditor

LEUMA L. LEATUMAUGA Sergeant-At-Arms Testimony in STRONG SUPPORT of HB152 HD1 SD1

RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE

BY Al Lardizabal, Government Relations, Hawaii Laborers' Union

To the Senate Ways and Means Committee

April 4, 2013, 9:00 a.m., Rm. 211

State Capitol

Chair David Ige, Vice Chair Michelle Kidani and members of the committee:

The Hawaii Laborers' Union supports HB152 HD1 SD1 which increases the maximum allowable medical fees under workers' compensation to 130 percent of the Medicare Resource Based Relative Value Scale applicable to Hawaii. The current limit is 110 percent. However, by previous testimony by the DLIR, the U.S. Department of Labor Office of Workers' Compensation Program Medical Fee Schedule conversion factor for Hawaii was 140 percent of Medicare in 2012. So the proposed increase for 2013 is still 10 percent less by U.S. D.O.L standards.

Our main concern is the efficient and effective treatment of injured workers on the job. However, our concern too is the opting out of physicians from providing workers' compensation services to these workers.

This bill, we believe, will begin to alleviate these concerns.

Thank you for the opportunity to submit this testimony.



HAWAII MEDICAL ASSOCIATION 1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814 Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

DATE: Thursday, April 4, 2013 TIME: 9:00 a.m. PLACE: CR 211

- TO: Committee on Ways and Means Senator David Y. Ige, Chair Senator Michelle N. Kidani, Vice Chair
- FROM: Hawaii Medical Association Dr. Steven Kemble, MD, President Dr. Linda Rasmussen, MD, Legislative Co-Chair Dr. Joseph Zobian, MD, Legislative Co-Chair Dr. Christopher Flanders, DO, Executive Director Lauren Zirbel, Community and Government Relations

Re: HB 152 RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES

Position: Strongly Support HB 152 SD1

The Hawaii Medical Association is submitting testimony in strong support of HB 152 **SD1**.

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'

OFFICERS

PRESIDENT - STEPHEN KEMBLE, MD PRESIDENT-ELECT – WALTON SHIM, MD SECRETARY - THOMAS KOSASA, MD IMMEDIATE PAST PRESIDENT – ROGER KIMURA, MD TREASURER – BRANDON LEE, MD EXECUTIVE DIRECTOR – CHRISTOPHER FLANDERS, DO 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.

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.

Mahalo for the opportunity to submit testimony on this important issue.





320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Randy Perreira President Telephone: (808) 597-1441 Fax: (808) 593-2149

The Twenty-Seventh Legislature, State of Hawaii Hawaii State Senate Committee on Ways and Means

> Testimony by Hawaii State AFL-CIO April 4, 2013

H.B. 152, HD1, SD1 - RELATING TO WORKERS' COMPENSATION

The Hawaii State AFL-CIO supports H.B. 152, HD1, SD1 which increases maximum allowable medical fees under workers' compensation to 130 percent of the Medicare Resource Based Relative Value Scale.

We believe it is important to encourage more physicians to accept workers' compensation patients. Unfortunately, the current reimbursement rates result in fewer doctors willing to accept them. An increase to 130 percent would hopefully boost the number of doctors willing to examine and treat injured workers.

Thank you for the opportunity to testify.

espectfully submitted.

Randy Perreira President





Hawaii State Chiropractic Association

P.O. Box 22668 Honolulu, HI 96823-2668 ph: (808) 926-8883 fx: (808) 926-8884 www.hawaiistatechiropracticassociation.org

<u>COMMITTEE ON WAYS AND MEANS</u> Sen. David Ige, Chair Sen. Michelle Kidani, Vice Chair

HEARING Date: Thursday, April 4, 2013 TIME: 9:00 am PLACE: Conf Rm 211

Chair Ige, Vice Chair Kidani, and committee members:

Allow me to submit testimony on this bill on behalf of the Hawaii State Chiropractic Association. I am the current President and Executive Director of the HSCA.

The HSCA **fully supports HB152 HD1 SD1** to increase workers' compensation reimbursements to 130% of Medicare RBRVS. We have supported this position for the past many sessions that this subject has been introduced.

We have been waiting for the legislature to act upon its own LRB study report that, in 1998, concluded that the work comp fee schedule fixed at 110% of the Medicare RBRVS was inadequate to reimburse providers of service for the work they do. The LRB report recommended that it be raised to 125%-130% of Medicare. For 15 years, the legislature has failed to act on the LRB's recommendation despite repeated attempts to address this problem in each legislative session.

In the 15 years that have transpired, the Medicare RBRVS has not kept up with the cost of living or the cost of doing business or the CPI, compounding the problem faced by providers today. Since 1998, our economic picture has changed and grown dramatically, but Hawaii's work comp reimbursement rate has remained stagnant.

Medicare should never have been the model on which to base work comp reimbursements because the demographic populations are so very different, as are the causes of their need for care. Medicare beneficiaries and work injured employees have little in common and a fee that is based on the former does not compensate providers adequately for the care of the latter.

The HSCA urges the legislature to finally recognize this problem as one needing remedy. Too much time has gone by without any action by the legislature and too much has already been lost for providers

and for injured workers. We urge the passage of HB 152 HD1 SD1 without delay. Another study will take time, cost the taxpayers money, and will likely be similarly ignored. The time for action and a remedy is now. There have already been 15 years of delaying tactics.

Sincerely,

Dr. Gary Saito President and Executive Director Hawaii State Chiropractic Association

THE SENATE TWENTY-SEVENTH LEGISLATURE, 2013 STATE OF HAWAII

COMMITTEE ON WAYS AND MEANS

Sen. David Y. Ige, Chair Sen. Michelle N. Kidani, Vice Chair

Date: Thursday, April 4, 2013 Time: 9:00 a.m. Place: Conference Room 211, State Capitol

TESTIMONY OF ILWU LOCAL 142 RE: HB 152, HD 1, SD 1 RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES

Chair Ige, Vice Chair Kidani, Members of the Committee on Ways & Means:

Thank you for the opportunity to present testimony re: HB 152, HD 1, SD 1. We support this useful and constructive measure.

Access to quality medical care is perhaps the single most important factor in the successful functioning of our workers' compensation system. Effective medical care enables injured workers to resume productive lives or to make the necessary adaptations to transition to other occupations. Sound medical treatment also permits employers and insurers to minimize their expenses in paying for lengthy temporary or permanent disability.

At present, effective medical care is not available to all injured workers because the level of compensation received by those physicians willing to take workers' compensation is below that paid for regular prepaid health insurance. When the lower rate of reimbursement is coupled with administrative requirements for claims documentation and the added time this entails, many medical providers are simply refusing to accept workers' compensation patients. This problem is often most acute on the neighbor islands, where health care providers, especially in certain medical subspecialties like neurology and neurosurgery is limited or non-existant.

The result is that injured workers then can go untreated or cannot access quality medical care. Our best and busiest physicians can build successful practices without workers' compensation patients, and thus they are often the least available to care for injured workers.

HB 152, HD 1, SD 1 would go far to correct the inadequate compensation of medical providers in the workers' compensation arena by increasing the base for compensation from 110 percent to 130 percent of the Medicare Resource Based Relative Value Scale. Significant adjustments in medical care compensation have rarely been made, and thus, enhancement is justified merely to keep pace with inflation, if for no

other reason. It is also vital to recognize that overall insurance premium costs for workers' compensation <u>have declined 69% between 2005-2010</u>, according to statistics provided by the Director of the Department of Labor and Industrial Relations in testimony on March 20, 2012 before the Senate Committee on Health regarding HB 2152, HD 2, a proposal to achieve a similar medical fee increase. Thus, a 20% increase that constitutes less than one-third of this 69% decline should not be viewed as overly generous.

By approving HB 152, HD 1, SD 1 the legislature will not only increase the availability of quality medical care, but in the long run will ensure a more stable system of workers' compensation medical coverage, and we therefore urge its passage.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII 711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: <u>tdayton@geico.com</u> Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

> Senate Committee on Ways and Means Conference Room 211 State Capitol Wednesday, April 4, 2013, 9:00 a.m. HB 152, HD1, SD1 – Relating to the Medical Fee Schedule

Chair Ige, Vice-Chair Kidani and Members of the W&AM Committee:

My name is Timothy Dayton, General Manager for GEICO. GEICO provides motor vehicle insurance for 30% of the households in Hawaii that insure an automobile. **GEICO opposes HB 152 SD1 and supports HB 152 SD2.** As currently written, the increase to the WC Fee Schedule will flow through to automobile Personal Injury Protection (PIP) and this will cause a major increase in the cost of automobile insurance in Hawaii. The increase will occur even though there are no shortages of doctors and medical providers willing to provide treatment to automobile injury victims.

For the past two decades, Hawaii drivers have enjoyed affordable insurance coupled with reasonable benefits due to changes made by the Legislature to balance costs and benefits through several initiatives passed in the 1990's. The most important reform has been the medical fee schedule. Unfortunately the restraints on PIP cost drivers have been diluted due to a variety of cost escalators including:

- unlimited amounts of massage therapy
- prescription drug repacking
- an Administrative ruling that uncapped the cost of emergency treatment In 2012 GEICO filed and received approval from the Hawaii Insurance

Commissioner for a 25% increase in our premium rates for PIP. As you can see from the attached exhibit, the increase requested and approved did not come close to meeting the increase in costs. Costs related to automobile repair were better than expected and allowed GEICO an opportunity to offset the PIP increases and keep the overall rates our 135,000 Hawaii customers pay at a relatively flat level. We do not have this cushion to use again if the Fee Schedule is increased and we will be forced to submit a filing in advance of the effective date of this legislation. Further the amount paid in PIP directly impacts Bodily Injury Liability, Uninsured Motorist ad Underinsured Motorist Coverages.

HB 152 SD2 requires the state auditor to conduct a study to conduct a study on various aspects of the workers' compensation medical fee schedules and system in the State, including the sufficiency of current rates to provide access to the State's physicians that are willing to serve workers' compensation patients and fiscal impacts of increasing fee schedules. Adoption of HB 152 SD1 would likely cause an unwarranted but dramatic increase in personal auto PIP premium. A study would allow all relevant factors to be considered, and to avoid the consequences of an across the board increase in the medical fee schedule.

GEICO urges the Committee to hold this Bill and to allow the auditor to conduct the study contemplated by proposed HB 152 SD2.

Thank you for the opportunity to submit this testimony.

Simithy M Bay f

Timothy M. Dayton, CPCU

Personal injury Protection

	Hawaii Rate Indications	Approved <u>Rate Change</u>
Gov't Employees Insurance Co. (GEICO)	74.0%	25%
GEICO Indemnity/GEICO Casualty	91.8%	25%



Government Relations

Testimony of John M. Kirimitsu Legal & Government Relations Consultant

Before:

Senate Committee on Ways and Means The Honorable David Y. Ige, Chair The Honorable Michelle N. Kidani, Vice Chair

> April 4, 2013 9:00 am Conference Room 211

Re: HB 152 HD1 SD1 - Relating to Workers' Compensation Medical Fee Schedules

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on HB 152 HD1 SD1, providing for an increase in the fee schedule for medical services in workers' compensation cases.

Kaiser Permanente Hawaii supports this bill.

Basing the medical fee schedule on the Medicare RBRVS began in 1995, and to date, the payments to health care providers has remain unchanged at 110% of Medicare RBRVS. Therefore, this bill's proposed increase to 130% is long overdue.

This issue of increasing the medical services reimbursement for workers' compensation cases has a long standing history before the Hawaii legislature. In 1998, the Hawaii legislature requested a study to determine if the 110% ceiling on the workers' compensation medical fee schedule based on the Medicare-RBRVS should be adjusted. In that study, the Legislative Reference Bureau recommended an increase in the 110% medical fee schedule, and attributed the low medical fee schedule for the trend in health care providers not accepting new patients for workers' compensation cases. The complete Legislative Reference Bureau report and its findings may be viewed at http://hawaii.gov/lrb/rpts98/fee.pdf.

Traditionally, workers' compensation fee schedules do not properly recognize and reimburse physicians who go beyond traditional medical services and perform the extra work required to promote an employee's rapid return to work. It is well documented that workers' compensation cases require more physician time in caring for and educating the patient, increasing the cost of delivering workers' compensation services compared with routine health care. As a result, low

711 Kapiolani Boulevard Honolulu, Hawaii 96813 Office: (808) 432-5224 Cell: (808) 282-6642 Facsimile: (808) 432-5906 Email: john.m.kirimitsu@kp.org fee schedules can discourage the participation of qualified physicians and have a consequential negative impact on access through a reduction of available physicians. On the other hand, an appropriate fee schedule promotes the development of quality occupational health programs and services, which in turn ensures higher quality of health care and increased access to injured workers without passing on higher costs to employers and insurers.

Thank you for the opportunity to comment.

Submitted on: 4/2/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
CATHY	PT HAWAII	Support	No

Comments: WE SUPPORT BILL HB 152

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Submitted on: 4/2/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Glenda	PT Hawaii	Support	No

Comments:

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Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Heather	PT Hawaii	Support	No

Comments: We Support Bill HB152!

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Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole	PT Hawaii	Support	No

Comments: As a billing manager I support the HB152 bill; we should support the few doctors that are willing to serve Worker's Compensation patients.

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WORK INJURY MEDICAL ASSOCIATION OF HAWAII 91-2135 Fort Weaver Road Suite #170 EWA BEACH, HAWAII 96706

MAULI OLA

THE POWER OF HEALING

April 4, 2013

COMMITTEE ON WAYS AND MEANS

HOUSE BILL 152 HD1 SD1

RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULES.

INCREASES MAXIMUM ALLOWABLE MEDICAL FEE UNDER WORKERS' COMPENSATION TO 130% OF THE MEDICARE RESOURCE BASED RELATIVE VALUE SCALE.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS HOUSE BILL 152 HD1 SD1.

WITH THE UNITED STATES DEPARTMENT OF LABOR WORKERS' COMPENSATION FEE Schedule at 143% of Medicare for the State of Hawaii in the year 2012. Work Injury Medical Association of Hawaii believes this is a good time to increase the medical fee for workers' compensation to 130%.

THIS WILL GET MORE PHYSICIANS TO PARTICIPATE IN HEALING THE INJURED WORKERS. The passage of this bill will benefit both the injured worker and their employer.

YOUR PASSAGE OF THIS BILL WILL BE GREATLY APPRECIATED.

GEORGE M. WAIALEALE EXECUTIVE DIRECTOR WORK INJURY MEDICAL ASSOCIATION OF HAWAII

Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Eva Shear	Workstar	Support	No

Comments: Work Comp injuries require an incredible amount of documentation and administrative support that it's workload stands in no comparison to a regular patient visit covered by private insurance. This has to be financially reimbursed more fairly than it is now, or else we will loose more and more physicians being willed to accept W.C. injuries.

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91-2135 Fort Weaver Road, Suite #170 Ewa Beach, HI 96706 Phone: (808) 676-5331 Fax: (808) 671-2931

April 2, 2013

Committee on Ways and Means Subject: House Bill 152

Chairperson and fellow committee members:

I am writing to voice my concern and support of this legislation. I believe increases fo maximum allowable medical fees under workers' compensation to 130 percent of the Medicare Resource Based Relative Value Scale is justified.

It is a common practice from the insurance carrier to lower reimbursements for all fees render concerning Worker's compensation. In this current market, it is already difficult for physicians to get approval for work related injury. Being denied adequate and fair compensation for services render would add to the problem of limited care.

Not passing this legislation will be a detriment to all injured workers of Hawaii. Patients with specific injuries need specialized and specific treatment/evaluation.

The proposed bill will only benefit the current and future injured workers.

Please pass this legislation and help ensure proper treatment of injured workers and patients of Hawaii.

Mahalo and sincerely,

XUONG K. TANG, D.O. PHYSICAL MEDICINE AND REHABILITATION SPECIALIST WORK*STAR INJURY RECOVERY CENTER

Submitted on: 4/3/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Anson Rego	Individual	Support	No

Comments: I am writing in support of HB 152. The bill deserves support because it will encourage more doctors to treat injured workers. Everyone recognized the above statement to be true and that there are a shortage of doctors to treat under the workers compensation system, especially on the outer islands and in rural areas like Waianae. Thank you. Anson Rego Waianae Attorney

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Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
bernard portner	Individual	Support	No

Comments: as a physician treating orthopedic injuries in hawaii since 1981, i find it more and more frustrating to work within the current w/c structure. this bill will definitely change things for the better. it will allow the injuried worker to better receive the quality medical care that they deserve.

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Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Cook	Individual	Support	No

Comments: In very strong support!

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Submitted on: 4/3/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Clayton Everline MD	Individual	Comments Only	Yes

Comments: Few physicians accept workers' compensation patients in the State of Hawaii due to the low fee schedule. As you can imagine, this has resulted in an access to care problem for the State's injured workers -- magnified by the state's shortage of physicians in general. I urge you to raise the fee schedule to become more in line with national averages, thereby increasing access and choice for Hawaii's injured workers.

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53 Puunene Ave., Suite 104 Kahului, HI 96732 April, 3^{Telephone:} (808) 871-0900 Fax: (808) 871-9119

Dear Senate WAM chair David Ige,

I am in favor of Senate Bill of HB152, HD1, SD1 to increase the state work comp. fee schedule to Medicare plus 30%. It is difficult for small medical practices to survive at current reimbursement rates to continue to provide quality care to our patients. Therefore this bill is extremely important.

Sincerely fundli Dawn Jernal



53 Puunene Ave., Suite 104 Kahului, HI 96732 April, 3 2013 (808) 871-0900 Fax: (808) 871-9119

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53 Puunene Ave., Suite 104 Kahului, HI 96732 April, 3 2013 Fax: (808) 871-0900 Fax: (808) 871-9119

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an Jernaill

Submitted on: 4/2/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah A. Luckett	Individual	Support	Yes

Comments: Published in the Star Advertiser on Sunday, March 24, 2013: In this digital age of the internet, wikipedia, the nook & kindle, the University of hawaii os justifying a salary of \$195,000 for incoming head librarian Irene Herold. This is an outrageous use of our tax dollars, not to mention that in a state with a projected physician shortage of 1,550, a librarian will make more than the average physician. During a legislative session where a bill to increase the fee code schedule for the few remaining physicians who still accept workers' compensation is being vigorously debated, we are using our scarce resources to hire a librarian? It appears that our priorities are misdirected. According to the Insurance Commissioner of hawaii Report 2012, here is how the health care premium dollar in work comp is spent: 40% Administrative costs (\$77,772,000) 31% Disability (\$61,039,000) 29% medical care ((\$56,344,000) Of the 29% that is spent on medical care: 26% hospital 13% drug 5% DME 54% physician (so 54% of 29% or about 5% is spent on doctors) In this day and age, when HECO is allowed to raise their rates, the unemployment insurance just increased \$150/per employee, HMSA raised their rates and inexplicably changed the CPT codes & fee schedules for physical medicine & rehabilitation and the city, county and state of Hawaii are all awarding themselves raises, and driving up the cost of doing business in Hawaii --well, i just do not know how doctors will continue to bear the increases in lease space, unemployment insurance, increased taxes, increased healthcare premiums, raise request from employees & continue to care for the backbone of this economy, the blue collar worker, who I suspect lives & votes in most of your districts.

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Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
joan koff	Individual	Support	No

Comments: It is about time that providers who help workers covered by their wc insurance get a reasonable rate of reimbursement for the more than average amount of time it takes to do all the paperwork and correspondence!!

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Submitted on: 4/3/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Jonna Oleniacz PA-C	Individual	Support	No

Comments: Strongly support.

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Submitted on: 4/2/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
KRISTINA EVERLINE	Individual	Support	No

Comments: WORKERS COMPENSATION PREMIUMS FOR HAWAII ARE THE 6TH LOWEST IN THE NATION ACCORDING TO THE 2012 NATIONAL COUNCIL ON COMPENSATION INSURANCE. (NCCI). ACCORDING TO THE 2010 UNIVERSITY OF HAWAII SYSTEM REPORT ON PHYSICIAN WORKFORCE THAT BY 2020 OUR PHYSICIAN SHORTAGE WILL BE 1500 DOCTORS. THE MEDICAL AVERAGE COST PER CASE IN HAWAII IS ONE HALF THE COST OF THE NATIONS

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Submitted on: 4/2/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Su	ıbmitted By	Organization	Testifier Position	Present at Hearing
Μ	ark Phillipson	Individual	Support	No

Comments:

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Submitted on: 4/2/2013

Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
mickey tseng,m.d.	Individual	Support	No

Comments: I strongly support this bill.

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April 2, 2013

Senator David Ige Ways and Means Committee Chair

Support of HB 152, HD1, SD1

Dear Chairman Ige:

I am a physical therapist in Hilo, Hawaii writing to encourage the committee to support HB 152 which would increase the worker's compensation fee schedule to a Medicare +30%. I have owned a private practice for the last 10 years and have seen my net revenues drop over the last few years due to decreased reimbursement and increase in practice expenses (rent, utilities, etc.). Congress acted to keep the Medicare Physician Fee Schedule the same from January 1, 2013 through the end of this year. Every year, we wait to see what Medicare and Congress will do because it impacts that population (the elderly and disabled) of patients, but in Hawaii it also affects our WC and motor vehicle patients. Let me point out that these 2 groups of patients are very distinctly different, but yet WC fees are tied into Medicare. It is already increasingly difficult for patients to find doctors with a Medicare + 10% fee schedule, I can't imagine what will happen if Medicare makes any cuts (which they propose yearly). I have had patients call every doctor in the phone book and not one doctor would accept the case. My own family physician will not see me should I get injured on the job.

Personally, I have also stopped taking certain WC cases due to declining reimbursement rates. Up until 2011, I was doing Functional Capacity (which assists physicians to determine return to work status and readiness) which takes at least 4 hours to do the exam and then another 2 hours of report writing. In the end I would spend 6+ hours and WC does not reimburse me for the report writing time and the reimbursement is so low, I do better seeing other patients. I was the only one of 2 clinics in Hilo that ran the test. After analyzing the reimbursement rates, I stopped running the evaluations. I also no longer do Work Conditioning/Work Hardening programs because the reimbursement is so low (\$50.31/hour) it does not cover my cost to operate.

The Director of Labor can adjust the fee schedule, but usually after "studying issues" and making adjustments, months have gone by and in the end the providers are the ones that suffer. We can't adjust our rents, utility bills, or our own medical insurance premiums for employees when reimbursement goes down.

Taira-Tokuuke Testimony Page 1 This bill is a step to improving a very convoluted system. I strongly support this bill and hope that this committee will pass this bill.

Please contact me if you would like to discuss this further. Thank you for your time.

Sincerely,

Att Jaina Johle, PT

Patti Taira-Tokuuke, M.S., PT Phone (808) 969-3811 Fax: (808) 969-6630

DATE: February 24, 2012

TO: HOUSE COMMITTEE ON FINANCE

FROM: Scott McCaffrey, MD

RE: HB 152

Dear Honorable Chair Oshiro and Committee Members:

I strongly support the measure before you based on the following facts:

- Only 10% of Hawaii's physicians currently are willing to see WC patients creating a chilling access to care barrier most pronounced on the neighbor islands.
- Doctors still willing to treat injured workers suffer a high cost in paperwork and reporting requirements and must spend additional time and effort communicating with employers and carriers since disability benefits are included.
- Tied to Medicare since 1995, there has been no significant raise in fees for primary care doctors and specialty fees in general continue to lag far behind national standards.
- Doctors and hospitals currently utilize only ~20% of each premium dollar which calculates to a modest impact of only 3.9% which will likely be offset through expedited care access and reduced employee lost time.

Thank you for helping those who help get our injured workers back on the job!

Scott McCaffrey, MD

Occupational and Emergency Medicine

Honorable Chair Ige, Vice Chair Kidani and respected members of the Ways and Means Committee:

I am writing to express my strong support for HB 152.

Few physicians accept workers' compensation patients in the State of Hawaii due to the low fee schedule.

As you can imagine, this has resulted in an access to care problem for the State's injured workers -magnified by the state's shortage of physicians in general.

I urge you to raise the fee schedule to become more in line with national averages, thereby increasing access and choice for Hawaii's injured workers.

Mahalo,

Sean Duffy Alikai Health 343 Hobron Lane, Suite 3802 Honolulu, HI 96815 <u>sean@alikaihealth.com</u> (808) 208-0294 (p) (888) 861-1286 (f)

Submitted on: 4/2/2013 Testimony for WAM on Apr 4, 2013 09:00AM in Conference Room 211

Submitted B	y Organization	Testifier Position	Present at Hearing
Terri Pacheco NF	P-C Individual	Support	No

Comments:

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