
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's existing
2 workers' compensation system has been plagued by delays and
3 denials, and in many of those cases, insurers seem to
4 automatically deny the claim pending investigation. These
5 investigations may include reviewing reports from an independent
6 medical examiner, interviewing other employees, looking at
7 videotapes, or combing through old medical records for evidence
8 as to whether the workplace injury was related to a pre-existing
9 condition. While the insurer considers, sometimes for months,
10 how to proceed on a claim, the patient is at times unable to
11 receive compensation.

12 The purpose of this Act is to prevent the non-payment of
13 workers compensation claims by employers while the claim is
14 pending investigation by:

15 (1) Requiring the employer to pay for all medical services
16 required for the employee for the compensable injury
17 and the process of recovery;



1 (2) Establishing negotiation, notice, and review
2 procedures for disputed claims of medical services
3 rendered; and

4 (3) Imposing fines and penalties on employers who fail to
5 negotiate in good faith.

6 SECTION 2. Chapter 386, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§386- Payment by employer; duty to service provider;
10 disagreement with service provider; resolution procedures. (a)
11 Notwithstanding any other law to the contrary, the employer
12 shall pay for all medical services required by the employee for
13 the compensable injury and the process of recovery. The
14 employer shall not be required to pay for care unrelated to the
15 compensable injury.

16 (b) The employer shall retain the right to investigate the
17 claim, but shall not use the investigation to determine
18 compensability as the basis of denial of medical services for
19 the employee.

20 (c) If an employer disputes a claim for services rendered
21 or a bill received, the employer shall notify the provider of



1 services of that fact within calendar days of receipt of
2 the claim for services or bill. Failure by the employer to
3 submit timely notice to the provider of services shall render
4 the employer liable for the services provided or bill received
5 until the employer satisfies the notice requirement and except
6 as provided in subsection (d).

7 (d) Any employer who has received a claim for services
8 rendered or a bill from a provider of services shall be liable
9 for the claim or bill and shall, within sixty calendar days of
10 receipt of the claim or bill, pay all charges listed in the
11 claim for services rendered or the bill, except for items for
12 which there is reasonable disagreement. After expiration of the
13 sixty-calendar-day time period for payment, the provider of
14 services may increase the total outstanding balance owed for
15 undisputed services or charges by one per cent per month.

16 (e) In the event of reasonable disagreement, the employer
17 shall:

18 (1) Pay all undisputed charges;

19 (2) Notify the provider of services of the denial of
20 payment of any disputed charges and the reason for the



1 denial within calendar days of receipt of the
2 bill or claim for services rendered; and

3 (3) Provide a copy of the denial to the employee.

4 The employer's denial shall include a statement as follows:

5 "IF THE PROVIDER OF SERVICES DOES NOT AGREE WITH THE
6 EMPLOYER'S STATED REASON FOR DENIAL OF PAYMENT, THE
7 PROVIDER OF SERVICES MAY FILE A BILL DISPUTE REQUEST
8 WITH THE DIRECTOR OF THE HAWAII DEPARTMENT OF LABOR
9 AND INDUSTRIAL RELATIONS. THE BILL DISPUTE REQUEST
10 SHALL BE CLEARLY IDENTIFIED AS 'BILL DISPUTE REQUEST'
11 IN CAPITAL LETTERS AND IN NO LESS THAN TEN POINT FONT
12 ON THE FRONT OF THE FIRST PAGE OF THE REQUEST AND ON
13 THE FRONT OF THE ENVELOPE IN WHICH THE REQUEST IS
14 SENT. ANY BILL DISPUTE REQUEST SHALL BE FILED WITHIN
15 THIRTY CALENDAR DAYS AFTER POSTMARK OF THE EMPLOYER'S
16 DENIAL OF PAYMENT. THE PROVIDER OF SERVICES' FAILURE
17 TO SUBMIT A TIMELY BILL DISPUTE REQUEST SHALL BE
18 CONSIDERED AS ACCEPTANCE OF THE EMPLOYER'S DENIAL OF
19 PAYMENT."

20 (f) Upon receipt of a bill dispute request, the director
21 shall send notice to the parties and the parties shall negotiate



1 to resolve the disputed services or charges during the thirty-
2 one calendar days following the date of the notice from the
3 director. If the parties fail to enter into an agreement within
4 the thirty-one calendar days, then within fourteen calendar days
5 thereafter, either party may file a request in writing to the
6 director to review the bill dispute request; provided that the
7 requesting party sends notice of the request to the non-
8 requesting party. Upon receipt of the request for review, the
9 director shall send the parties a second notice requesting each
10 party to file a position statement with the director, including
11 substantiating documentation that describes the services and
12 amounts in dispute and all actions taken to resolve the dispute
13 during the thirty-one calendar day period of negotiation under
14 this subsection. The director shall review the positions of the
15 parties and render an administrative decision without a hearing.
16 The director may assess a service fee of up to \$1,000 payable to
17 the general fund against one or more parties who the director
18 finds has failed to negotiate in good faith. Denial of payment
19 without reasonable cause shall be considered a failure to
20 negotiate in good faith.



1 (g) An employee shall be liable for reimbursement of
2 benefits or payments received under this section for any
3 disputed claim that is found to be not compensable, whether
4 received from an employer, insurer, or the special compensation
5 fund. Reimbursement shall be made to the source from which the
6 compensation was received, and may include recoupment by the
7 insurer of all payments made for medical care, medical services,
8 vocational rehabilitation services, and all other services
9 rendered for payment under this section."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2018.



Report Title:

Workers' Compensation; Compensable Claims; Employer Payment

Description:

Requires employers to pay for all medical services required for the employee for the compensable injury and the process of recovery, even when claims are disputed. Establishes negotiation, notice, and review procedures for disputed claims. Imposes fines and penalties on employers who fail to negotiate in good faith. (HB1640 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

