



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

March 29, 2023

To: The Honorable Sharon Y. Moriwaki, Chair,  
The Honorable Chris Lee, Vice Chair, and  
Members of the House Committee on Labor and Technology

Date: Wednesday, March 29, 2023

Time: 3:05 p.m.

Place: Conference Room 224, State Capitol

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

**Re: S.C.R No. 134 REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONTINUE TO RECOGNIZE AND ACCEPT THE RIGHT OF A PROVIDER OF SERVICE TO ASSIGN THE RIGHT TO PARTICIPATE IN A WORKERS' COMPENSATION BILLING DISPUTE TO A BILLING COMPANY.**

**I. OVERVIEW OF PROPOSED LEGISLATION**

DLIR **supports the intent** of this measure but notes the workers' compensation case mentioned in this resolution is currently under appeal so the department cannot comment on that case. SCR134 request the DLIR to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

**II. CURRENT LAW**

§12-15-1 HAR, "Provider of service" means any person or entity who is licensed, certified, recognized, or registered with the Department of Commerce and Consumer Affairs (DCCA) and who renders medical care, medical services, or medical supplies in accordance with Chapter 386, HRS.

§386-1 provides that "Medical care", "medical services", or "medical supplies means every type of care, treatment, surgery, hospitalization, attendance, service, and supplies as the nature of the work injury requires, and includes such care, services and supplies rendered or furnished by a licensed or certified physician, dispensing optician, physical therapist, physical therapist assistant as recognized pursuant to section 461J-3(e), nurse, advanced practice registered nurse as recognized pursuant to chapter 457, occupation therapist, certified occupational therapy

assistant as recognized pursuant to chapter 457G, or licensed massage therapist as recognized pursuant to chapter 452.

§386-21(c) provides that, when a dispute exists between an insurer or self-insured employer and a medical services provider regarding the amount of a fee for medical services, the Director may resolve the dispute in a summary manner as the Director may prescribe.

§12-15-94(d), HAR, In the event a reasonable disagreement relating to specific charges cannot be resolved, the employer or provider of service may request intervention by the director in writing with notice to the other party.

## **II. COMMENTS ON THE HOUSE CONCURRENT RESOLUTION**

The DLIR recognizes and accepts the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company. However, the department would like to emphasize that all workers' compensation cases are adjudicated on an individual case-by-case basis. A provider of service has a right to assign their rights to another entity. However, the assignee has the obligation to provide evidence of their legal right to negotiate on behalf of that provider. Provider of service/assignee also has the responsibility to negotiate as per the workers' compensation statute.

**SCR-134**

Submitted on: 3/28/2023 9:23:11 AM

Testimony for LBT on 3/29/2023 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
MEGAN TABARANGO	Testifying for Vintage Medical and Billing, LLC	Support	Written Testimony Only

Comments:

Support for SCR 134

I strongly support SCR 134, which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

SCR 134 provides in part:

1. The Director of Labor and Industrial Relations has recognized for over ten years that billing companies are allowed to step into the shoes of a provider of service with the authority to participate in the dispute process.
2. Just as employers frequently assign their rights to participate in a workers' compensation billing dispute regarding prescription medication claims (dispute) to an insurance carrier or other billing review company, providers of service should have a similar right.
3. Unfortunately, some opponents of this well-established and balanced precedent have recently attempted to undermine the ability of a provider of service to assign their rights to participate in a dispute to a billing company.
4. These opponents are urging employers and carriers to refuse to recognize the right of billing companies to participate in disputes.
5. If these opponents are successful, this may restrict the ability of a provider of service to effectively treat an injured worker and adversely impact the main goal of the workers' compensation system, which is to heal injured workers and return them to work as soon as reasonably possible.

As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

Thank you for your consideration.

Megan Tabarango

**LATE**

**SCR-134**

Submitted on: 3/28/2023 4:45:22 PM

Testimony for LBT on 3/29/2023 3:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dr. Scott McCaffrey	Testifying for Hawaii Injured Workers Association	Support	Written Testimony Only

Comments:

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As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

Thank you for your consideration.

**SCR-134**

Submitted on: 3/25/2023 1:31:08 PM

Testimony for LBT on 3/29/2023 3:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Robert Nickell	Testifying for Pharmco Inc	Support	Written Testimony Only

Comments:

I am a pharmacist and the CEO of Pharmco Inc., a national mail order pharmacy that ships prescriptions into the State of Hawai‘i. This resolution is important to support as I cannot personally be present to represent claims and the need to assign to another entity, billing company or person is important and helpful.



**SCR-134**

Submitted on: 3/29/2023 11:21:32 AM

Testimony for LBT on 3/29/2023 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Cathy Wilson	Individual	Support	In Person

Comments:

Aloha Chair Senator Sharon Moriwaki, Vice-Chair Senator Chris Lee, and the members of the Committee on Labor and Technology.

**Support for SCR 134**

I strongly support SCR 134, which requests the Department of Labor and Industrial Relations to continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

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As such, I fully support this resolution and believe that the Department of Labor and Industrial Relations should continue to recognize and accept the right of a provider of service to assign the right to participate in a workers' compensation billing dispute to a billing company.

**Mahalo for your consideration.**

**Cathy Wilson**