
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Section 386-21.2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[f]~~**S386-21.2**~~[j]~~ **Treatment plans.** ~~[(a) A physician may~~
4 ~~transmit a treatment plan to an employer by mail or facsimile,~~
5 ~~provided that the physician shall send the treatment plan to an~~
6 ~~address or facsimile number provided by the employer.~~

7 ~~(b) Beginning January 1, 2021, an]~~ (a) An employer shall
8 allow a physician to transmit a treatment plan to an employer by
9 mail, facsimile, or secure electronic means; provided that the
10 physician shall send the treatment plan to an address or
11 facsimile number provided by the employer.

12 ~~[(e)]~~ (b) A treatment plan shall be deemed received by an
13 employer when the plan is ~~[sent by mail or facsimile]~~
14 transmitted with reasonable evidence showing that the treatment
15 plan was received.

16 (c) Any employer denying a treatment plan shall file,
17 within seven days after the treatment plan is deemed received



1 pursuant to subsection (b), a written denial of the treatment
2 plan with the director by secure electronic means, with a copy
3 to the physician and injured employee. The written denial shall
4 include:

5 (1) An objection to the treatment plan;
6 (2) Documentary evidence supporting the denial; and
7 (3) A copy of the denied treatment plan.
8 (d) An employer shall have the burden of proof to
9 establish a preponderance of medical evidence that a treatment
10 plan is unreasonable, unnecessary, or inappropriate to justify a
11 denial under this section; provided that denial of a treatment
12 plan that is not supported by a medical opinion or relevant
13 medical records existing at the time of the denial shall be
14 presumed to be without reasonable grounds.

15 ~~(d)~~ (e) A treatment plan shall be deemed accepted if an
16 employer fails to file with the director[+]

17 ~~(1) An objection to the treatment plan;~~
18 ~~(2) Any applicable documentary evidence supporting the~~
19 ~~denial; and~~
20 ~~(3) A copy of the denied treatment plan,~~



1 ~~copying the physician and the injured employee.]~~ a written
2 denial of the treatment plan pursuant to subsection (c).

3 ~~[(e)]~~ (f) After acceptance of the treatment plan, or the
4 treatment plan is deemed accepted pursuant to subsection (e), an
5 employer ~~[may file an objection to the plan if new documentary~~
6 ~~evidence supporting the denial is received by the employer.]~~
7 shall pay the appropriate health care provider for any medical
8 care set forth in the treatment plan.

9 (g) Any employer found by the director to have denied a
10 treatment plan without reasonable grounds, frivolously, or
11 primarily for purposes of delay, or to have violated subsection
12 (f), shall be subject to:

- 13 (1) A fine of not less than \$5,000; and
14 (2) Payment of costs, including reasonable attorneys'
15 fees, incurred by the injured employee in contesting
16 the denial of the treatment plan or enforcing payment
17 pursuant to the treatment plan.

18 The department may enforce the penalties imposed by this section
19 in accordance with section 386-92."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on January 1, 2077.



Report Title:

Workers' Compensation; Treatment Plan; Response; Penalty

Description:

Repeals the authorization of a physician to transmit a treatment plan by mail or facsimile to an address or facsimile number provided by the employer. Requires employers denying a treatment plan to file a written denial with the Director of Labor and Industrial Relations within seven days of receipt. Places the burden of proof on the employer to establish by a preponderance of medical evidence that the denial of the treatment plan is justified. Establishes a presumption that a denial of a treatment plan not supported by a medical opinion or relevant medical records existing at the time of denial shall be without reasonable grounds. Clarifies that a treatment plan is deemed accepted if an employer fails to file a written denial within the seven-day period. Requires employers to pay the appropriate health care provider for any medical care set forth in a treatment plan that is accepted or deemed accepted. Establishes penalties for employers whom the Director found to have denied a treatment plan without reasonable grounds, frivolously, or primarily for purposes of delay, or to have failed to pay for an injured employee's medical care under an accepted treatment plan. Effective 1/1/2077. (SD1)

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