

ACT 132

H.B. NO. 589

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-21, Hawaii Revised Statutes, is amended to read:

“Sec. 386-21 Medical care, services and supplies. Immediately after a work injury sustained by an employee and so long as reasonably needed the employer shall furnish to the employee all medical care, services and supplies as the nature of the injury requires.

Whenever medical care is needed, the injured employee may select any physician or surgeon who is practicing on the island where the injury was incurred to render such care. If the services of a specialist are indicated, the employee may select any such physician or surgeon practicing in the State. The director of labor and industrial relations may authorize the selection of a specialist practicing outside the State where no comparable medical attendance within the State is available. Upon procuring the services of such physician or surgeon, the injured employee shall give proper notice of his selection to the employer within a reasonable time after the beginning of the treatment. If for any reason during the period when medical care is needed, the

³The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

employee wishes to change to another physician or surgeon, he may do so in accordance with rules prescribed by the director. If the employee is unable to select a physician or surgeon and the emergency nature of the injury requires immediate medical attendance, or if he does not desire to select a physician or surgeon and so advises the employer, the employer shall select the physician or surgeon. Such selection, however, shall not deprive the employee of his right of subsequently selecting a physician or surgeon for continuance of needed medical care.

The liability of the employer for required medical care, medical services and medical supplies shall be limited to the charges computed as set forth in the section. The director shall make determinations of such charges and promulgate fee schedules based upon such determinations as are set forth in this section. For calendar year 1974 and for each succeeding calendar year thereafter the charges shall be limited to the amounts determined in Regulation XXXI of the department which became effective on August 31, 1971, and amendments thereto, adjusted to reflect increases or decreases in the Consumer Price Index for the Honolulu region prepared by the Bureau of Labor Statistics of the United States Department of Labor which have occurred in the [four calendar quarters ending September 30] last twelve months ending August 31 of the year preceding; provided, that for the period July 1, 1973 through December 31, 1973, the charges set forth in Regulation XXXI shall be increased by the percentage increase in the Consumer Price Index for the Honolulu region which occurred during the period from August 1, 1971 to September 30, 1972].

The adjustments in charges provided for in this section shall be computed annually and rounded to the next higher multiple of ten cents in each case.

Notwithstanding the foregoing, the director shall review and if necessary revise said Regulation XXXI every three years, the review and revision to be conducted in accordance with section 91-3. The first review and revision shall be completed no later than December 1, 1974, to be effective January 1, 1975, and subsequent reviews [and/or] or revisions shall be made at each three year interval thereafter. In making such [review] reviews and revisions and promulgating fee schedules pursuant thereto, the director shall establish reasonable fees for medical care, medical services and medical supplies and may take into consideration in making such determination the charges made in the State for similar treatment of injuries which are not compensable under this chapter. The director may at any time, in the foregoing manner, establish an additional fee schedule or schedules to cover charges for medical care, medical services and medical supplies not previously regulated pursuant to the provisions of this section.

The liability of the employer may exceed the amount set forth in such fee schedule or schedules, only under conditions prescribed by the director.

If it appears to the director that the injured employee has wilfully refused to accept the services of a competent physician or surgeon selected as provided in this section, or has wilfully obstructed the physician or surgeon, or medical, surgical, or hospital services or supplies, the director may in his discretion consider such refusal or obstruction on the part of the injured employee to be a waiver by him in whole or in part of his right to medical care, services and supplies, and may in his discretion suspend the weekly benefit payments, if any, to which the employee is entitled so long as such refusal or obstruction continues.

Such funds as are periodically necessary to the department to implement the

foregoing provisions may be charged to and paid from the special compensation fund provided by section 386-151.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 26, 1979.)