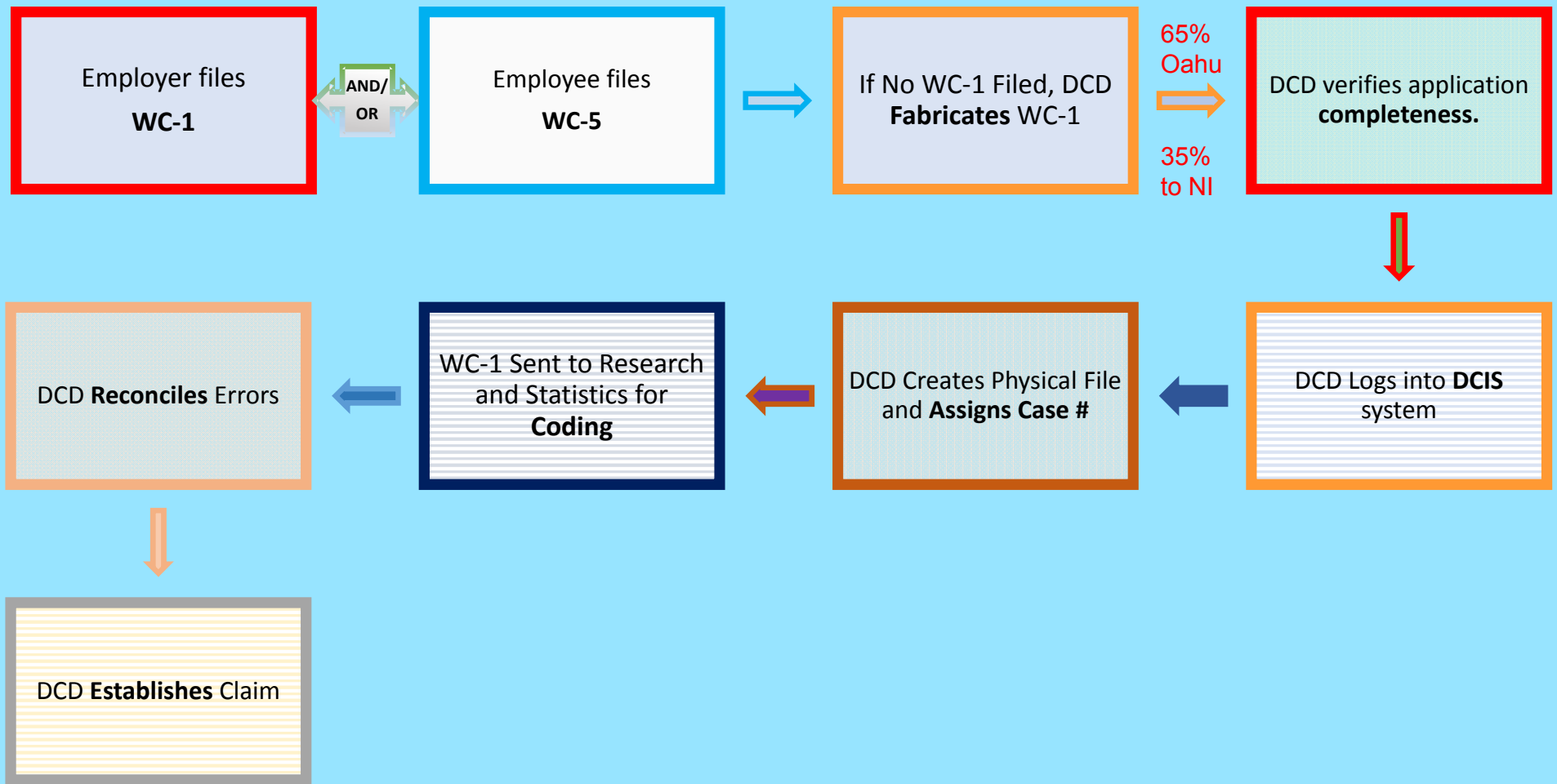


Workers' Compensation Working Group

Summary Report

December 14, 2016

- 1. Reporting and Claim Filing**
- 2. Claim Adjusting**



REPORTING AND CLAIMS FILING

WC-1

“First Report of Injury” –Employer Files

HRS 386-95:

- Within 7 days after employer has knowledge
- Within 48 hours, resulting in death

Employer Accepts or Denies Compensability

- HAR 12-10-61, File reports in District office;
Multiple copies;
Written in ink or typewritten;
Allows electronic submissions
- Carrier/Adjustors Submit Reports
 - Electronic (3 carriers – manual verification)
 - Hardcopy; paper and amendments
- Lack of quality –incomplete/inaccurate
- Three non-interactive data systems
- Manual tracking process

REPORTING AND CLAIMS FILING

WC-2 Physician Reports

HRS 386-96

- Within 7 days after the First service
- Interim Reports
- Request For Hearings
- Final Reports, within 7 days of termination of treatment
- Penalties for late or non-submission of reports

- HAR 12-15-80 provides reporting requirements
- Paper based; burdensome process
- No Electronic filing
- Limited WC Physicians
- Untimely and/or incomplete reports
- Penalties rarely assessed

REPORTING AND CLAIM FILING

WC-5

Employee Files

386-82, HRS Claim for Compensability

-Employer Fails to File WC-1

-Employer Denies Compensability

-Dependent of deceased Claimant (WC-5A)

HRS 386-71.6 WC benefit facilitator unit

- Physical hardcopy, multiple copies
- No Electronic filing
- Claimant unsure of the process and benefit rights (HRS 386-71.6 Facilitator role)
- DCD's role in collecting WC-5
- **Change form to mirror WC-1 information**

REPORTING AND CLAIMS FILING

WC-3

Benefits paid

HRS 386-71, duties and powers of the director in general, ...exercise all powers necessary to facilitate or promote...the prompt and proper payment of compensation.

HRS 386-95

-Year End Reports (Due January 31)

-Final Report (Within 30 days after final payment)

-Failure to Report Penalty

HRS 386-154 Special Assessments,
captive insurers and self-insured

- Paper Based
- No Electronic Filing
- Multiple years; Carrier/Adjuster changes throughout the course of the claim
- Inaccurate accounting
- 25-30% under/over payments
- Claimant not awarded the correct benefits
- \$5,000 fine for non-reporting

REPORTING AND CLAIM FILING



State of Hawaii
Disability Compensation Division

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[Home](#) » [Frequently Asked Questions](#)

FREQUENTLY ASKED QUESTIONS

[Workers' Compensation](#) | [Prepaid Health Care](#) | [Temporary Disability Insurance](#)

EMPLOYEE'S SECTION:

What should I do if I am injured on the job?

1. Immediately report the injury to your immediate supervisor or employer. You can do this orally or in writing.
2. Your immediately informing the employer of the date, time, and circumstances of the work injury is very important. If the work injury causes absence from work for one day or more or requires medical treatment beyond ordinary first aid, the employer is required to inform DCD of the work injury within seven working days of knowledge of

- [Workers' Compensation](#)
- [Prepaid Health Care](#)
- [Temporary Disability Insurance](#)

OUTCOMES

Reduce physical hardcopies

Expedite issuance of Claim numbers

Rule changes (Single form; not handwritten)

Increase electronic filing; Mandate electronic filing

Commitment to higher quality submissions

Form updates

Education (Frequently Asked Question, Staff training, Stakeholders)

Utilizing Facilitators as directed by Statute

Monitor / accountability

Enforce penalties

Expand Electronic Storage Capacity

Modernize/Technology

REPORTING AND CLAIMS FILING

Dispute Resolutions and Hearings Process

Form WC-5

Compensability issues
(initial compensability
and additional body
parts/conditions)

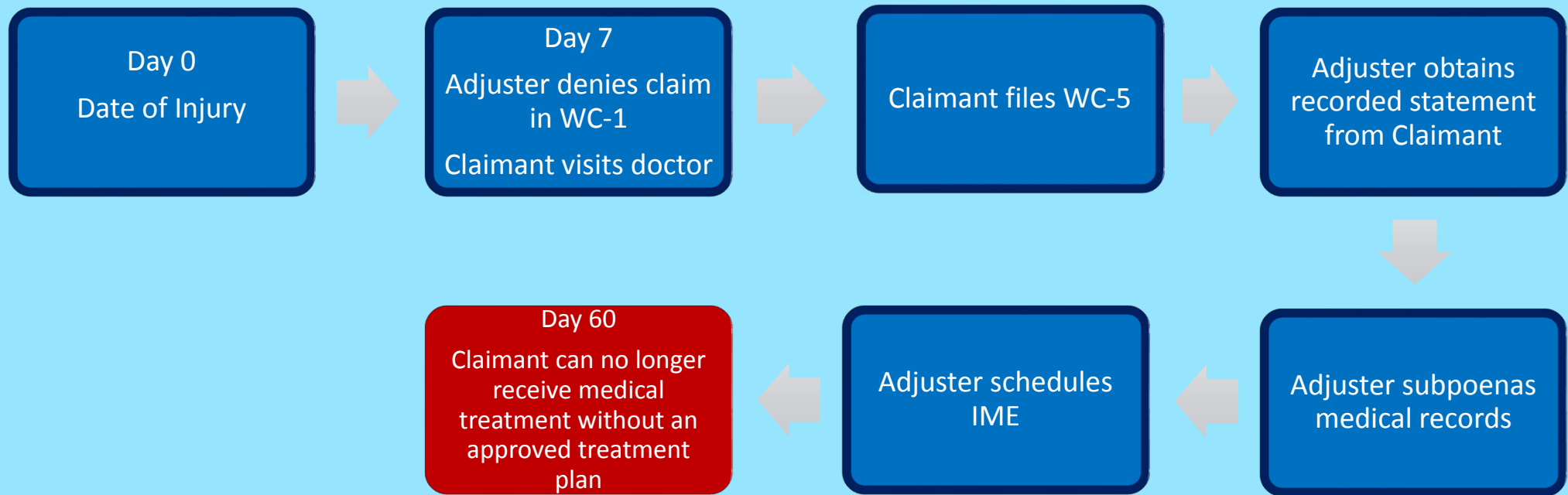
Form WC-5 revised to
mirror the WC-1 and
clarify what is expected
of the parties in the
hearings process.

Form WC-77

**All issues other than
compensability**
(e.g. denial of treatment
plans, termination of
TTD, determination of
PPD, etc.)

Form WC-77 under
revision to clarify what is
expected of the parties
in the hearings process

The hearing request is the first look at the issue



DISCOVERY PROCESS

Prepaid Health Care Law

Section 12-12-45, Controverted workers' compensation claims
In the event of a controverted workers' compensation claim, the health care contractor shall pay or provide for the medical services in accordance with the health care contract and notify the department of such action. If workers' compensation liability is established, the health care contractor shall be reimbursed by the workers' compensation carrier such amounts authorized by chapter 386, HRS, and chapter 10 of title 12, administrative rules. (Emphases added.)

Hawaii's Temporary Disability Insurance Law, Chapter 392, HRS

The law requires employer to provide partial “wage replacement” insurance coverage to their eligible employees for nonwork-related injury or sickness.

Eligibility includes at least 14 weeks of Hawaii employment during each of which the employee was paid for 20 hours or more and earned not less than \$400 in the 52 weeks preceding the first day of disability.

The 14 weeks need not be consecutive nor with only one employer.

The employee must also be in current employment to be eligible.



PRESCREENING PLACES EMERGENT CASES ON A DIFFERENT TRACK THAN THE NON-EMERGENT CASES

LOW STANDARD FOR IME ORDERED BY DIRECTOR

HAR§ 12-10-75: Upon employer's request, the Director shall issue a medical examination order upon finding that the examination will assist in the expedient disposition of the case or in determining the need for or sufficiency of medical care or rehabilitation

FAILURE TO ATTEND ORDERED IME

HRS§ 386-79:
If the Claimant refuses to submit to the exam, then the claimant's right to compensation is suspended

FAILURE TO ATTEND VOLUNTARY IME

No penalty under HRS§ 386-79 for failure to attend voluntary IME because penalty only applies to IME ordered by the Director

THE BURDEN IS SMALL FOR AN ADJUSTER TO OBTAIN THE RIGHT TO AN ORDERED INDEPENDENT MEDICAL EXAMINATION (IME)

Medical reasonableness and medical necessity

Pulawa v. Oahu Construction Co., 136 Haw. 217 (Haw. 2015)

Application of the “reasonable needed for the employee’s greatest possible medical rehabilitation” standard.

HRS 386-26 Guidelines on frequency of treatment and reasonable utilization of health care are services.

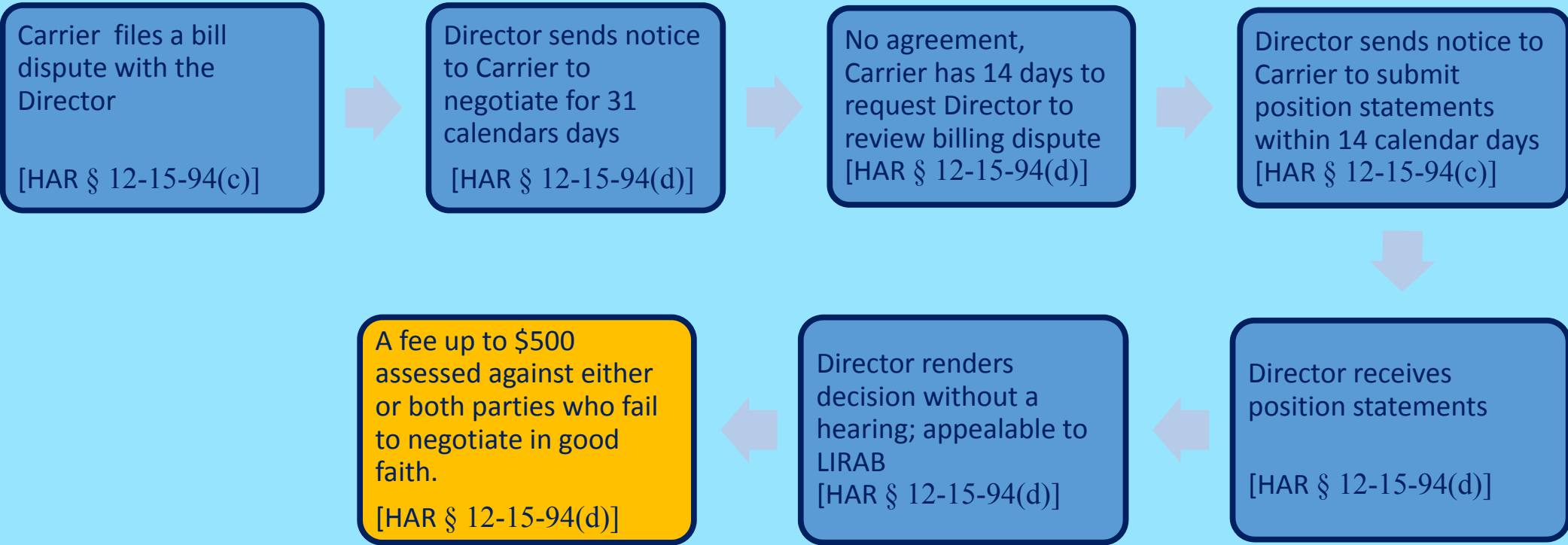
“The guidelines shall not be considered as an authoritative prescription for health care, nor shall they preclude any health care provider from drawing upon the health care provider’s medical judgment and expertise in determining the most appropriate care.”

OUTCOMES

- WC-5 revised to mirror WC-1 to better address hearing process
- Facilitator's assist in filling out WC-5 on behalf of injured worker
- Prioritize cases; emergent from non-emergent cases
- Moved Scheduling into Hearings Branch
- Medical care; initial (60 days) and awaiting treatment plan approval
- IME guidelines; reasonable necessary?
- Consequences of failing to attend IME; suspend compensation
- Disability Guidelines
- Monitor case process

Bill Dispute and Physician Dispensed Medicines

BILL DISPUTE PROCESS



Source: Hawaii Administrative Rule § 12-15-94

2014 LEGISLATIVE LAW

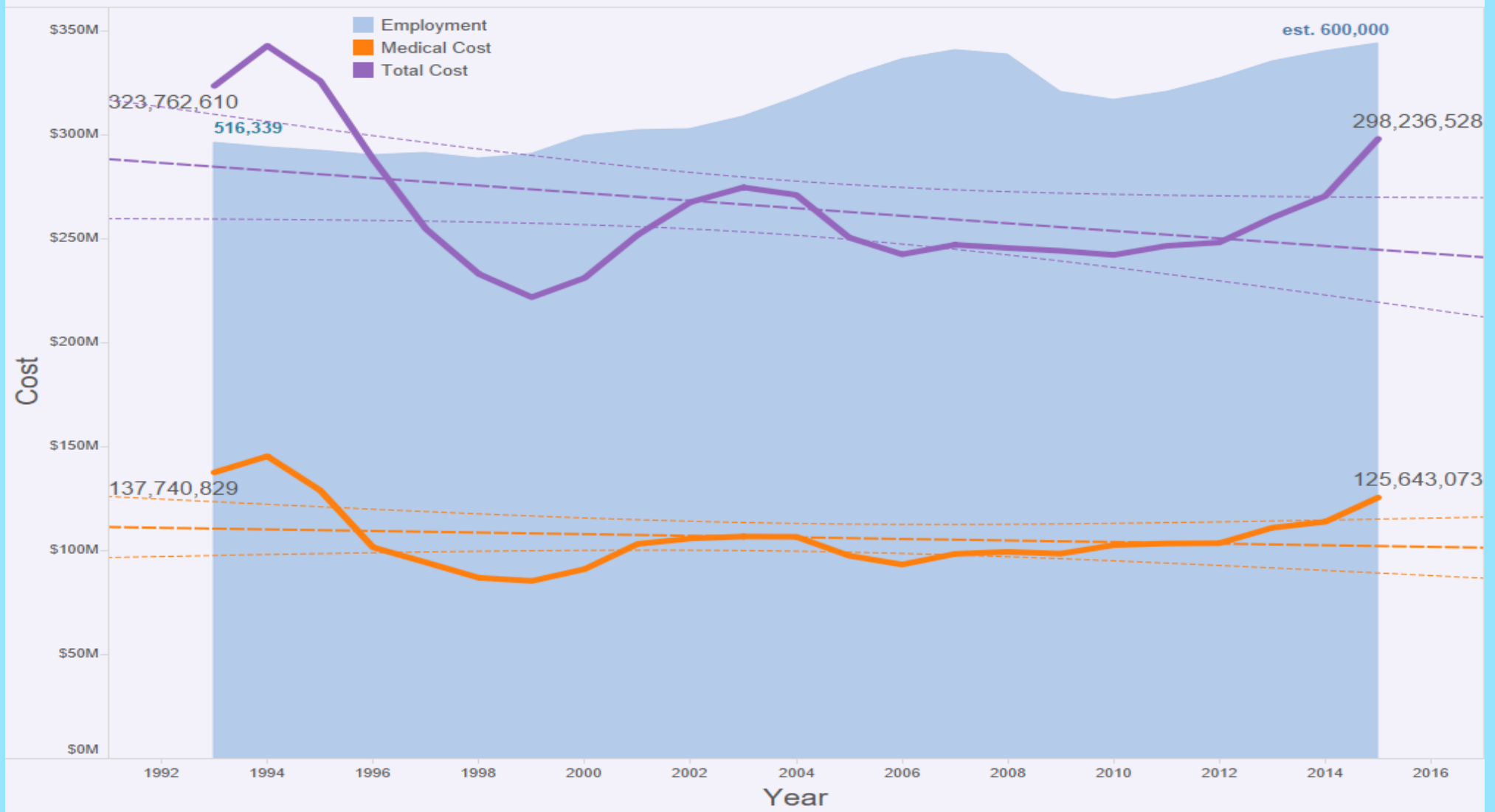
Section 386-21.7 Prescription drugs, pharmaceuticals.

- Payment for all forms of prescription drugs including **repackaged** and **relabeled** drugs shall be 140% of the average wholesale price set by the original manufacturer of the dispensed prescription drug as identified by its National Drug Code and as published in the Red Book, [HAR386-21.7(b)]
- Payment for **compounded** prescription drugs shall be the sum of 140% of the average wholesale price by gram weight of each underlying prescription drug contained in the compounded prescription drug, [HAR 386-21.7(c)]
- All pharmaceutical claims submitted for repackaged, relabeled, or compounded prescription drugs shall include the National Drug Code of the original manufacturer. If the original manufacturer is not provided or is unknown, then reimbursement shall be 140% of the average wholesale price for the original manufacture's National Drug Code number as listed in the Red Book. , [HAR 386-21.7(d)]

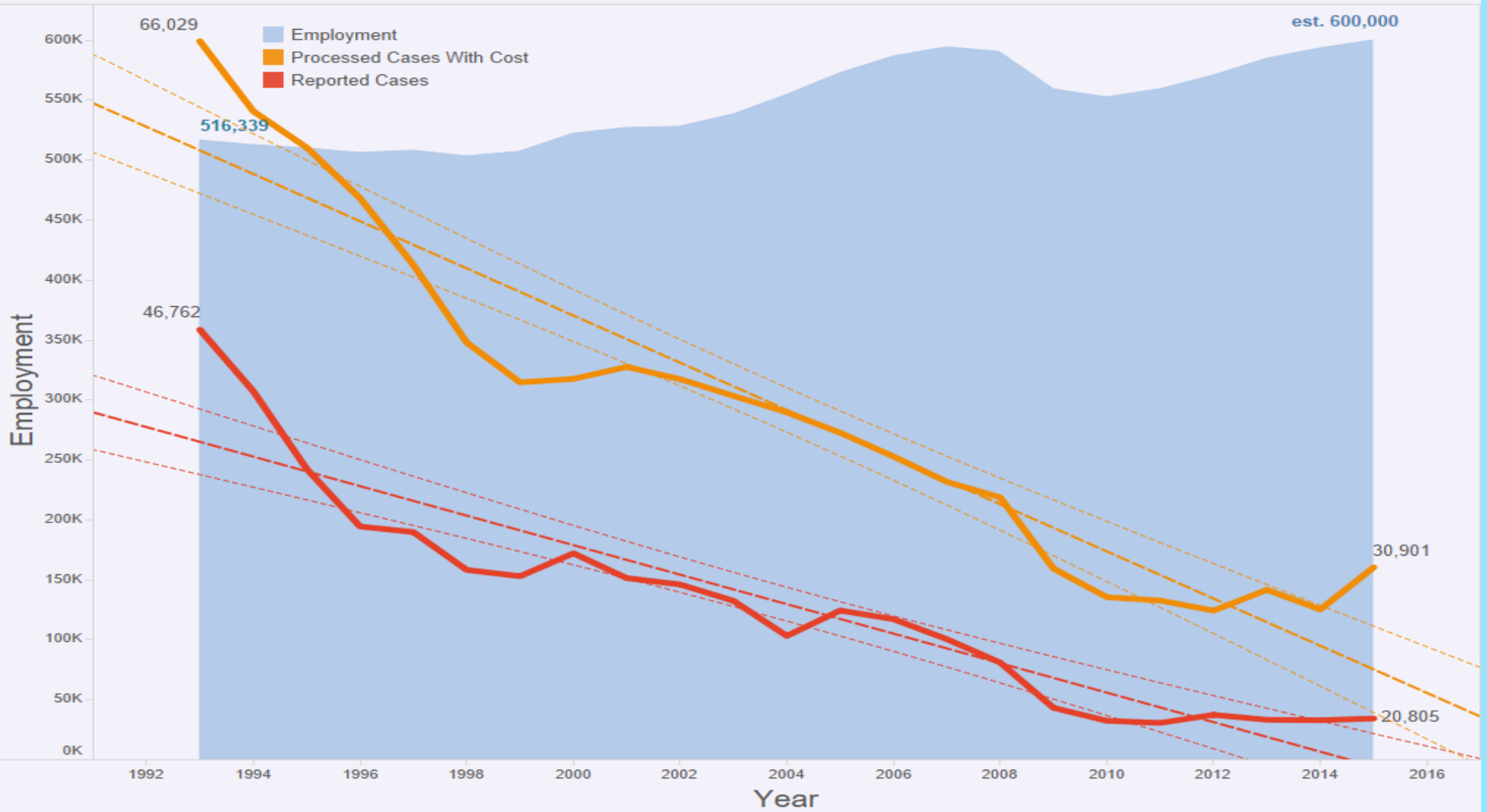
- Industry Statistics

Data Sources: Hawaii Workers' Compensation Data Book 1993-2015
Representative WC Payor Data - Anonymized

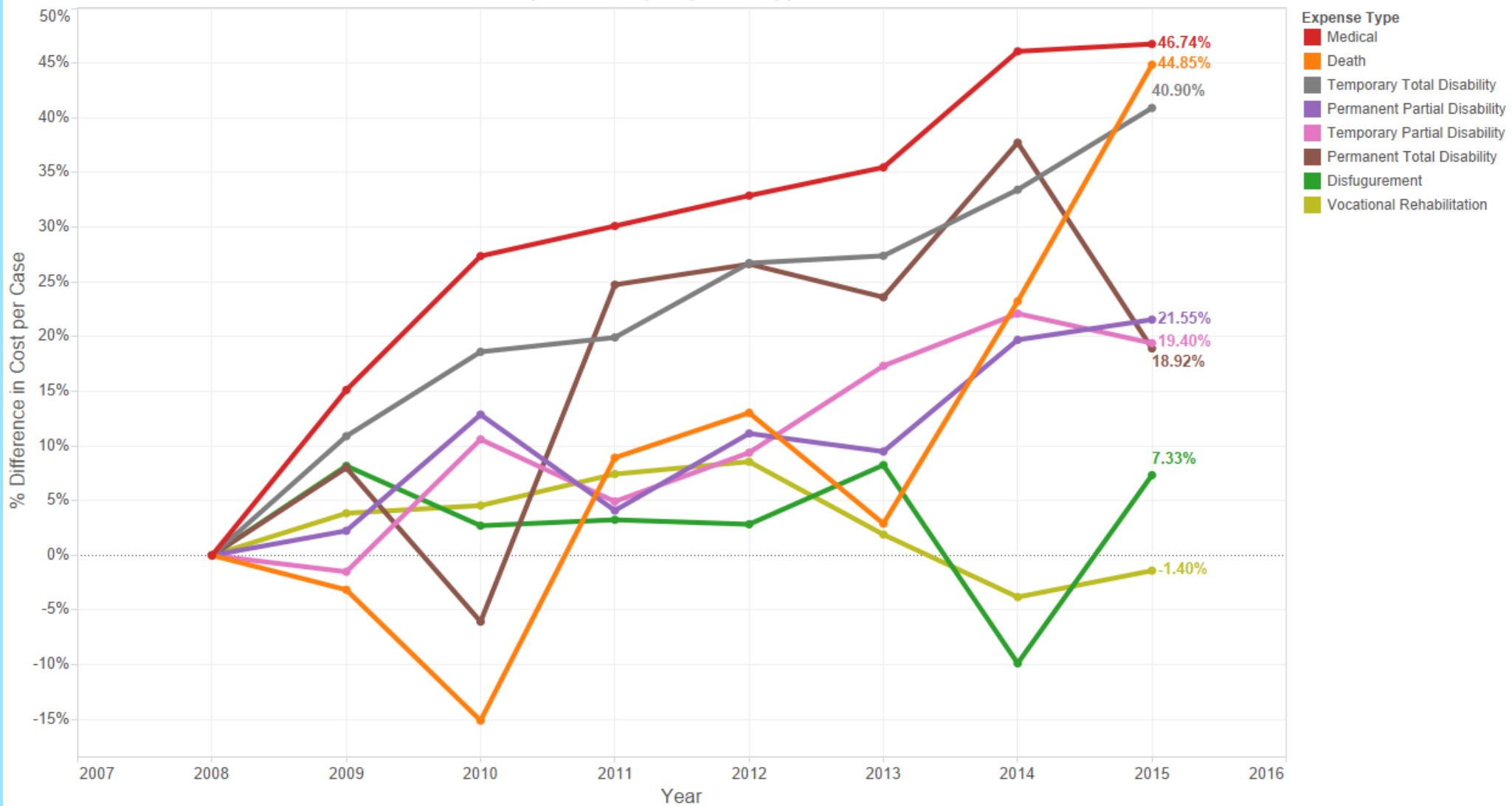
Costs are increasing again. . .



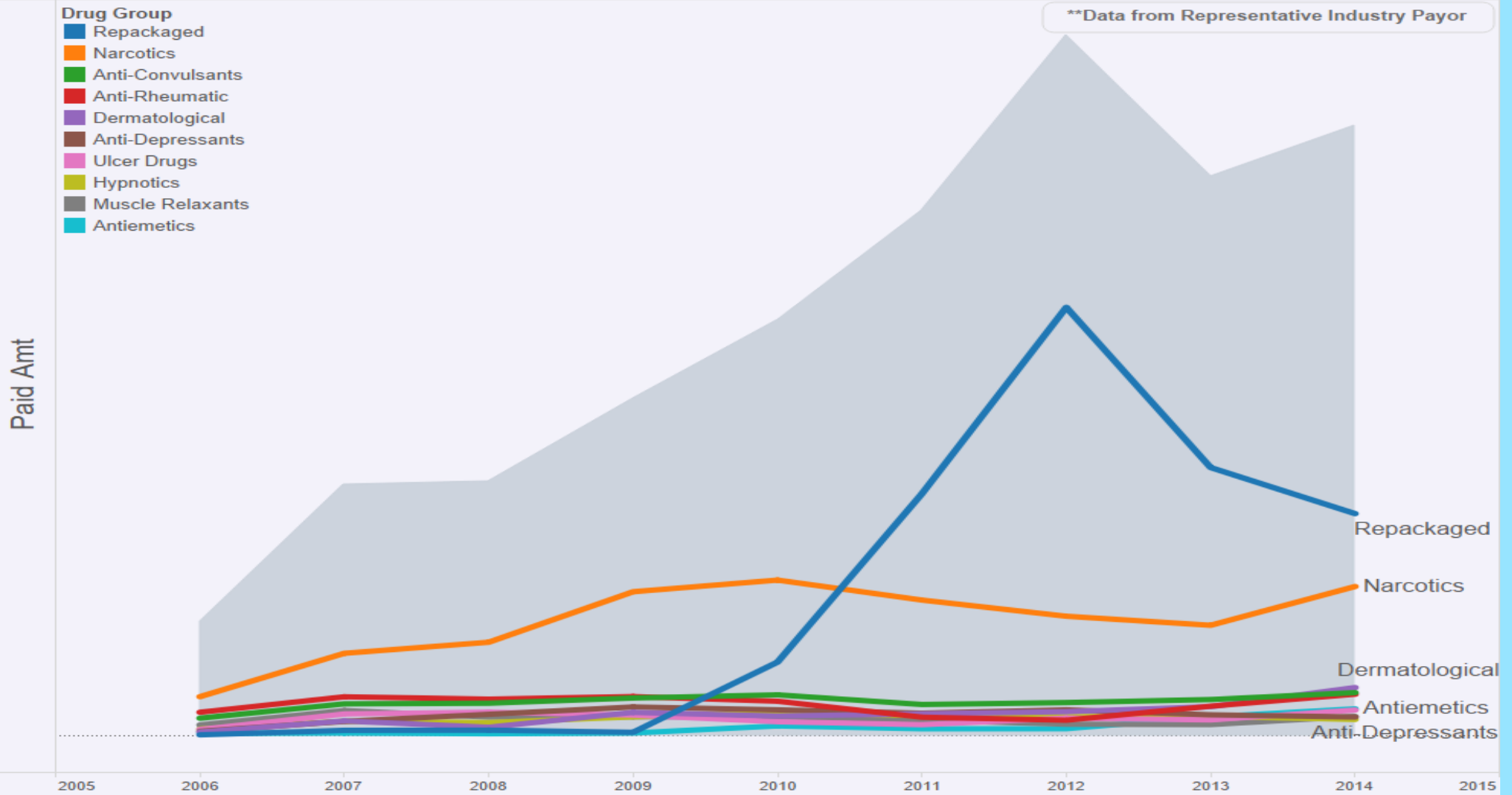
Cases are staying open longer. . .



Cost per Case by Expense Type

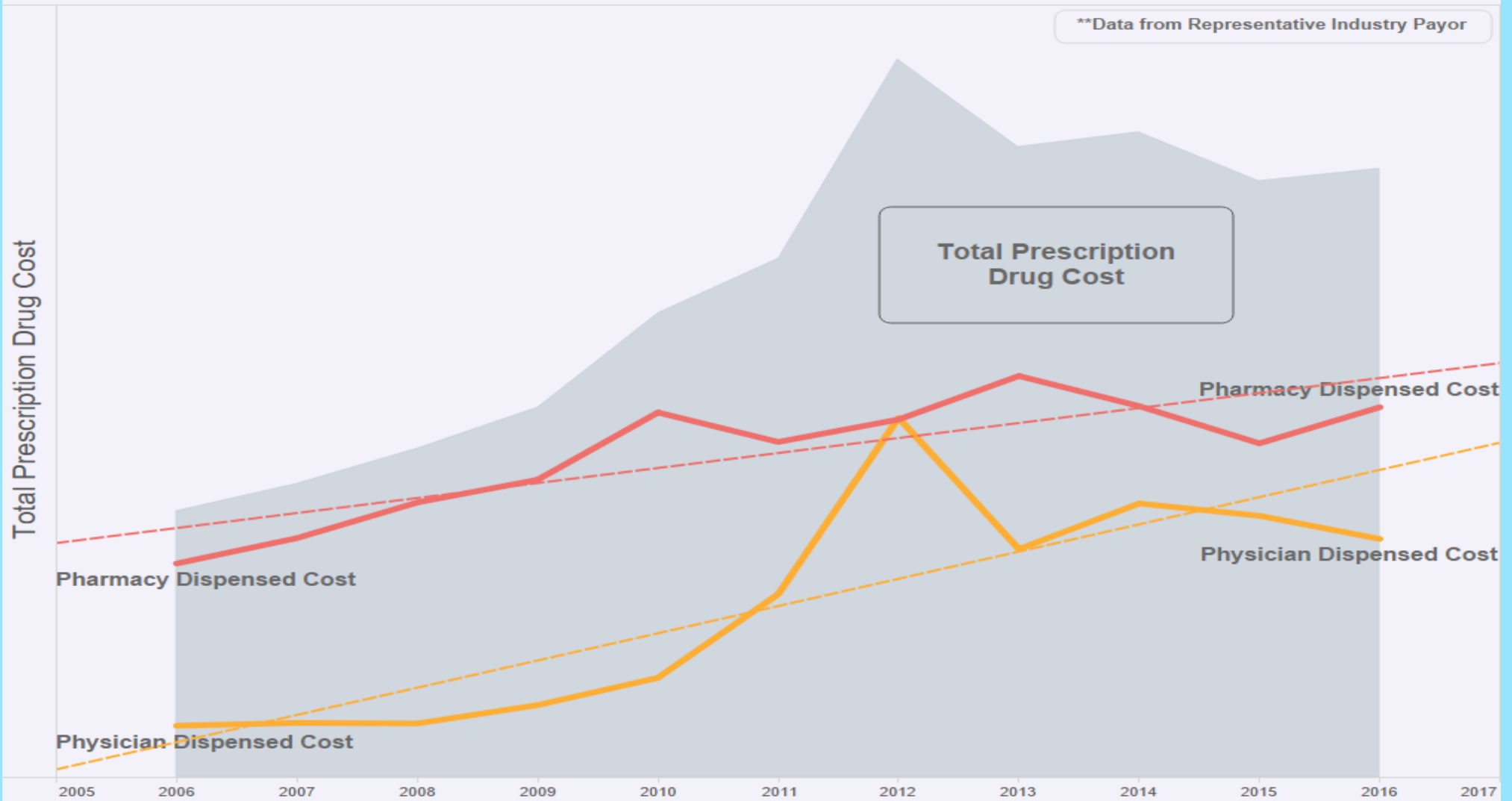


Drug Costs by Group - Top 10

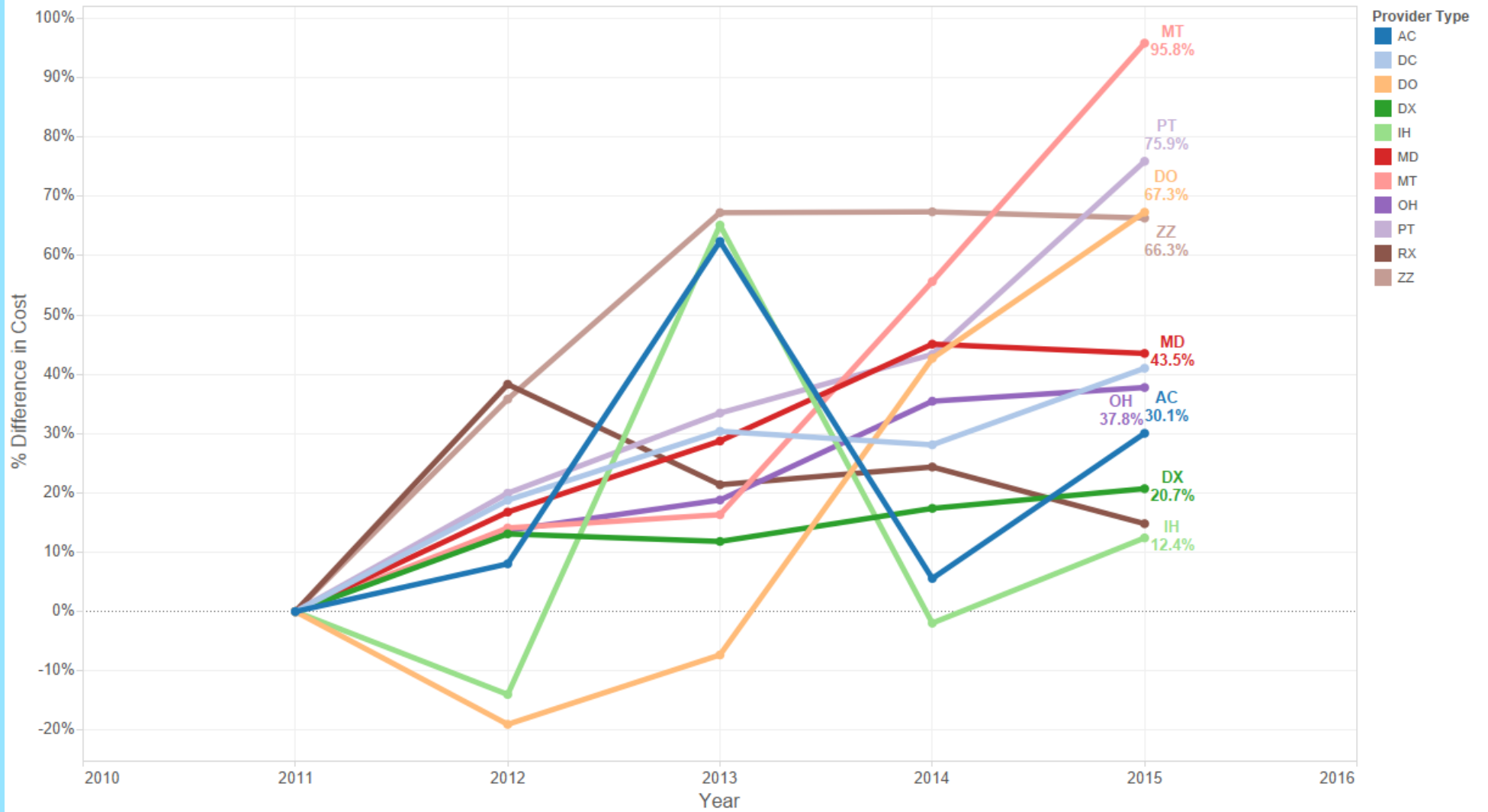


Physician vs. Pharmacy Dispensed

**Data from Representative Industry Payor



RT - Cost by Provider Type

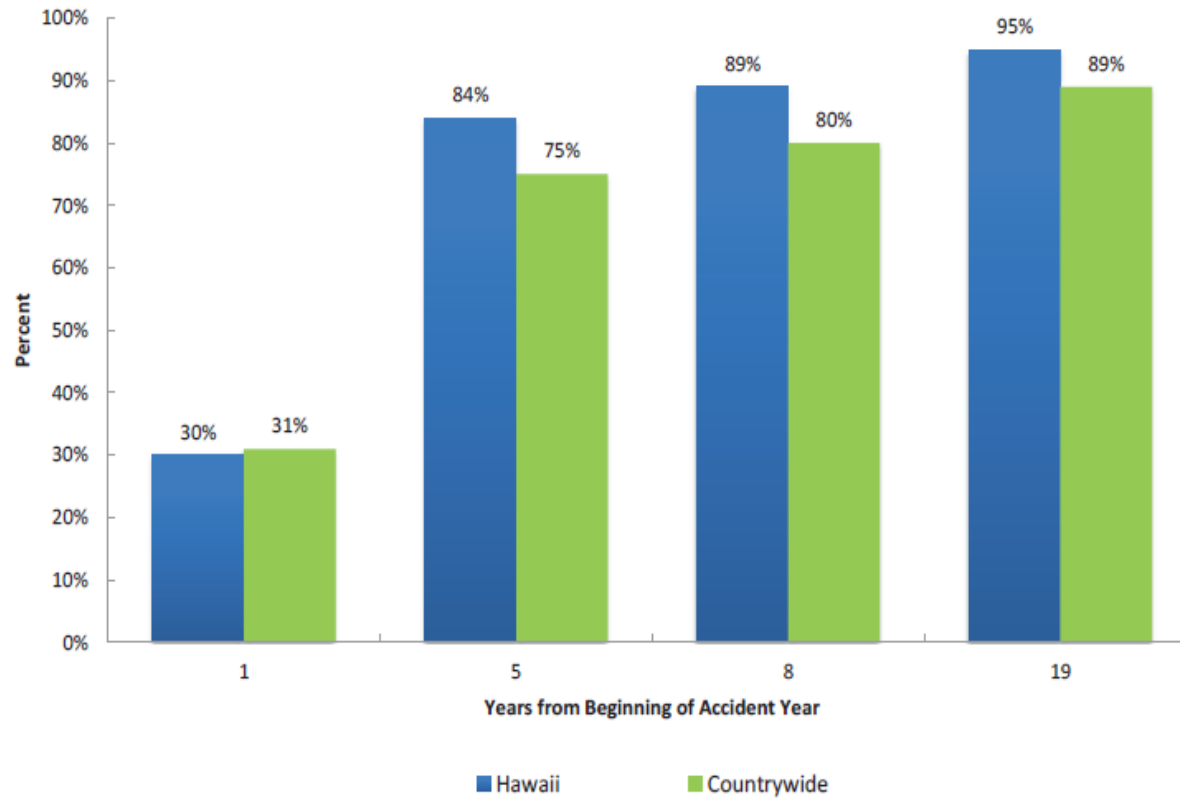


National Council on Compensation Insurance

**Medical Data Report
September 2015**

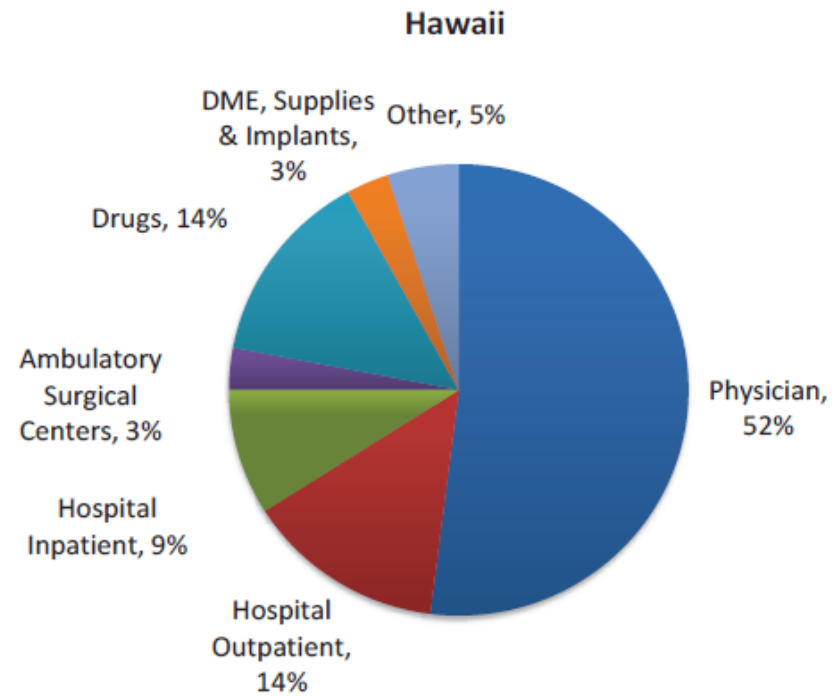
Chart 3

Percentage of Medical Paid by Claim Maturity



Source: NCCI Calendar-Accident Year Call for Compensation Experience. Countrywide includes data for the following states: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, and VT.

Distribution of Medical Payments



Source: NCCI Medical Data Call, Service Year 2014.

Top 10 Workers Compensation Drugs by Prescription Counts for Hawaii

Name of Drug	Type	% of Drug Prescriptions	Paid Per Unit Hawaii	Paid Per Unit Region	Paid Per Unit Countrywide
Hydrocodone-Acetaminophen	Generic	10.4%	\$0.74	\$0.55	\$0.56
Ibuprofen	Generic	4.2%	\$0.52	\$0.46	\$0.44
Oxycodone-Acetaminophen	Generic	3.8%	\$2.04	\$1.60	\$1.81
Oxycodone HCl	Generic	3.8%	\$0.93	\$0.97	\$1.07
Tramadol HCl	Generic	3.2%	\$0.87	\$0.63	\$0.68
Meloxicam	Generic	3.1%	\$3.00	\$2.59	\$2.63
Gabapentin	Generic	2.7%	\$1.64	\$1.13	\$1.27
Cyclobenzaprine HCl	Generic	2.7%	\$1.41	\$0.85	\$1.15
Naproxen	Generic	2.2%	\$1.32	\$0.87	\$0.95
Lyrica®	Brand Name	2.1%	\$4.90	\$4.56	\$4.65

Source: NCCI Medical Data Call, Service Year 2014.

Why are Prescription Drugs an Important topic in Workers' Compensation?

- 1- Substances with a high potential for abuse, may lead to severe psychological or physical dependence.**
- 2. Prescription Drugs are among the most active subjects of legislative activity in WC**
- 3. The FDA is focusing on the serious risks of misuse, abuse, addiction, overdoses, and death due to immediate-release opioids.**

OUTCOMES

- 1. Hawaii Administrative Rule, Title 12, Chapter 15, Workers' Compensation Medical Fee Schedule requires negotiation from both parties, with a \$500 penalty for failure**
- 2. Over 85% of Bill Disputes are related to physician dispensed medications**
- 3. Workers' Compensation Medical costs continue to increase**
- 4. Major expense costs are Medical and Temporary Total Disability**
- 5. Cases are staying open longer**
- 6. Narcotics costs are increasing**
- 7. Abuse of opioids**
- 8. Medical costs rise as claim matures**
- 9. HRS 386-21.7, regulates prescription drugs**

Vocational Rehabilitation

Vocational Rehabilitation. (a) The purposes of vocational rehabilitation are to restore an injured worker's earnings capacity as nearly as possible to that level that the worker was earning at the time of injury and to return the injured worker to suitable gainful employment in the active labor force as quickly as possible in a cost-effective manner. (underline added)

HRS § 386-25

VR counselor submits
“employee selection form”
HAR § 12-14-23(d)



After “enrollment” through
employee selection form,
Claimant is entitled to VR-TTD
HRS § 386-25(k)
HAR § 12-14-38(a)

EMPLOYEE SELECTION OF VR COUNSELOR DOES NOT
AUTOMATICALLY ENROLL CLAIMANT IN VR

- **HRS § 386-1 Definitions.** “Suitable gainful employment” means employment or self-employment within the geographical area where the employee resides, which is reasonably attainable and which offers an opportunity to restore the employee’s earnings capacity at the time of injury and to return the employee to the active labor force as quickly as possible in a cost-effective manner, giving due consideration to the employee’s qualifications, interests, incentives, future earnings capacity, and the present and future labor market. (underline added)

THE DEFINITION OF “SUITABLE GAINFUL EMPLOYMENT” PROVIDES FOR 100% OF PRE-INJURY EARNINGS CAPACITY AND OPTION OF SELF-EMPLOYMENT

- BEFORE CHANGE:

“Vocational rehabilitation services for the purpose of developing a vocational rehabilitation plan **shall** be approved by the director and the director **shall** periodically review progress in each case.”

- HRS § 386-25(h)(1997)(bold added).

- AFTER CHANGE

“Vocational rehabilitation services for the purpose of developing a vocational rehabilitation plan **may** be approved by the director and the director **may** periodically review progress in each case.”

- HRS § 386-25(h)(1998)(bold added).

- *NOTE: Currently, VR plans are automatically approved if there is no timely objection by employer or if no action is taken by the Director on an employer's timely objection.*

- HAR § 12-14-10(b) and (c)

1998 LEGISLATION NO LONGER REQUIRED THE DIRECTOR TO ACTIVELY
COORDINATE THE IMPLEMENTATION OF VR PLANS

Vocational Rehabilitation Plan

Requirements: 1. Undefined or vague 2. Allow claimants to choose their own VR counselor 3. Automatically approve VR plans	VR-TTD: 1. <u>Before</u> approved plan 2. Make difficult to stop, even if can return to usual and customary employment	Time: 1. No deadline for submission of VR Plan 2. Undefined length of VR plan	Costs: 1. Open ended cost 2. Undefined cost
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CURRENT VR PROCESS

OUTCOMES

1. The purpose of Vocational Rehabilitation is to “Restore” earnings and “Return” injured worker to employment
2. The Initial Evaluation is required for enrollment in VR
3. Enrollment begins VR-TTD
4. 1998 Legislative changes
5. No defined timelines for plan submittal or length of VR
6. Accountability
7. No proposed rule or statutory changes

Mahalo