



ADMINISTRATIVE INITIATIVE

STATE OF HAWAII DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS PREPAID HEALTH CARE COMPLIANCE STANDARDS

**TITLE: THE PREPAID HEALTH CARE ACT
COMPLIANCE ASSISTANCE PROGRAM**

NUMBER: AI 2005-2

HRS CHAPTERS: 393

REPLACES:

HAR: Title 12, Chapter 12

ISSUED: 2/28/05

DIVISION(S)/AGENCY(S): DISABILITY COMPENSATION

**APPROVED BY: _____
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ADMINISTRATIVE INITIATIVE DISCLAIMER

This Administrative Initiative is designed to provide general information in regard to current initiatives, opinions, policies, and/or guidelines of the Hawaii Department of Labor and Industrial Relations. It is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable in all situations. This Administrative Initiative does not replace applicable Hawaii Revised Statutes or Hawaii Administrative Rules. If additional clarification is required, the applicable division or agency administrator should be consulted.

A. General Information

The cost of medical care in case of sudden medical need may consume all or a significant part of a person's financial resources. The Hawaii Prepaid Health Care Act, chapter 393 of the Hawaii Revised Statutes, (PHC Act), provides employees in Hawaii with valuable health care insurance protection against such economic catastrophe. Employers must provide health care coverage to employees who work at least twenty (20) hours per week and earn 86.67 times the current Hawaii minimum wage a month ($\$6.25 \times 86.67 = \542). Coverage commences after four (4) consecutive weeks of employment or the earliest time thereafter at which coverage can be provided by the health care plan contractor, which is usually the first of the month.

In an effort to ensure that every employee who is entitled to medical insurance under the PHC Act receives that benefit, the Department of Labor and Industrial Relations (DLIR) is initiating the PHC Act Compliance Assistance Program. This administrative initiative will assist employers to identify and provide eligible employees with health care coverage and to assist non-eligible employees obtain health care coverage through other available programs.

The Disability Compensation Division's (DCD) Investigation Section will be conducting compliance assistance visits with randomly selected employers beginning February 2005. While the focus is on ensuring compliance with the provision of health care coverage, these visits will also verify that employers also have Temporary Disability Insurance (TDI) and Workers' Compensation (WC) Insurance coverage as all three programs are administered by the DCD.

B. Purpose

The purpose of this Administrative Initiative is to:

- (1) Ensure PHC coverage for all eligible employees.
- (2) Educate employers by providing:
 - i. general PHC program information;
 - ii. specific employee coverage eligibility information;
 - iii. specific premium payment information;
 - iv. introduction to the DCD website and point-of-contact information; and
 - v. potential consequences of failure to provide required coverage.
- (3) Assist employers in complying with the PHC law.

C. Compliance Assistance Procedures

1. Overview

Compliance assistance visits will be focused on educating and helping employers comply with PHC Act requirements. The intent is to establish positive working relationships with employers as the department believes that the majority of employers are willing to provide required benefits to their employees. An important part of these assistance visits is to educate employers of the catastrophic consequences which employers may face if their eligible employees require major health care services.

Employers will be penalized if it is determined that they knowingly failed to provide coverage as required by law. An intentional violation will be determined by the investigator based on the information gathered during the compliance review, including employee statements, and any previous violations that have been documented. Penalties may be waived in cases in which the employer, upon notification of a violation, expeditiously remedies the situation and provided any medical bills incurred by the eligible employee are fully paid by the employer. Follow-up visits will be conducted to ensure corrective measures have been completed.

Employers who inadvertently commit a minor infraction of the law will be advised of the requirements of the law and will be given assistance in correcting the violation. An example of a minor infraction would be an employer's failure to ensure the employee completed the DLIR's HC-5 Waiver of Coverage when an eligible employee is covered under a spouse's PHC plan. However, the employer may be penalized for their failure to correct an infraction in a timely manner or within the deadline provided by the investigator.

2. *Selection of Employers for Compliance Visits*

Sample Population – Information and Services Division. From the employers’ database in the Disability Compensation Information System (DCIS), all the registered employers and sole proprietors (i.e., DBAs) with a DCD active status will be extracted to form the raw sample database from which two datasets, WC covered employers and WC exempt employers will be generated as described below:

(a) The required fields of information for each file or list of employers were jointly developed with input from (ICSD), the DLIR’s Research and Statistics (R&S) and DCD, which include:

1. Island Code Field
2. Department of Labor (DOL) Number
3. Employer Name
4. Employer Address
5. Entity type (0 individual, 1 partnership, 2 corporation, 3 other)
6. Industry Code (NAICS)
7. Number of Employees (average annual employment level)

(b) WC Covered Employers File:

Employers satisfying the following two conditions are included in this file:

1. All registered employers and sole proprietors with DC active (ACT) or DC reactivated (RE) status.
2. The most current WC coverage record has active (ACT) status.

(c) WC Exempt Employers File:

Employers satisfying the following two conditions are included in this file:

1. All registered employers and sole proprietors with DC active (ACT) or DC reactivated (RE) status.
2. The most current WC coverage record has exempt (EXE) status.

Random Sample Selection. After the “WC Covered Employers File” and “WC Exempt Employers File” are generated, R&S will randomly select, on a monthly basis, from those two files, 60 employers based on Oahu, 25 for Maui, 12 for Hilo, 12 for West Hawaii and 12 for Kauai.

The DCD’s Investigation Section will receive a printout of randomly selected employers from the R&S Office. The printout will be distributed monthly.

- (a) The printout will be sorted by individual island codes.
- (b) Oahu County will receive a list of 60 employers each month. Employers will also be sorted by the digit of the DOL Number.
- (c) Maui County (Maui, Molokai, Lanai) will receive a list of 25 employers each month.
- (d) Kauai County will receive a list of 12 employers each month.
- (e) Kona will receive a list of 12 employers each month.
- (f) Hilo will receive a list of 12 employers each month.

3. *Compliance Assistance Visits*

Each investigator will be assigned random employers for compliance assistance visits, and will attempt to conduct an average of 3 compliance assistance visits per week. The investigator will review the employer's records from the DCIS database to verify the following:

1. Employer information; ie — employer full name, address (ERINF)
2. Employer DBA information (ERDBA)
3. Employer PHC coverage (PHCCOV)
4. Employer TDI coverage (TDICOV)
5. Employer WC coverage (INSCOV)

The investigator will prepare and provide the employer with a compliance assistance introductory letter (see exhibit A) to go to the employer's worksite and explain the scope and purpose of the visit. The investigator generally will follow these procedures:

- (a) Upon arriving at the worksite or employers' premises, the investigator will conduct a short interview with the employer to obtain general information about the employer's business and coverage policies including commencement of coverage procedures. The investigator will answer the employer's questions and hand out any brochures or forms needed by the employer. The investigator will complete the compliance assistance questionnaire (see exhibit B). At this point, the investigator may be able to assess any problem areas and gain a general knowledge of the employer's payroll system.
- (b) The investigator will review the records from the last 12 months to determine if the employer is in compliance with the TDI and WC laws should the preliminary research show non-compliance. The investigator will complete the pertinent sections of the compliance check list, (see exhibit C) and determine that adequate records have been provided.
- (c) If the employer is not required to have PHC Act coverage, the investigator will memorialize that the employer is in compliance and all eligible employees have proper coverage from other

sources. The DLIR's Form HC-5 will be verified or given to the employer for completion by the employee. The investigator will interview a sample of the employees to ensure that there was no coercion to waive their medical coverage.

1. Sampling of exempt and uncovered employees will be as follows:

- a. 1-10 employees - 20%
- b. 11-20 employees - 10%
- c. 21-50 employees - 7.5%
- d. over 50 employees - 5%

2. If any exempt or uncovered employee is determined to be eligible for coverage, the entire population of exempt and uncovered employees will be reviewed.

Using the determination of eligibility for the health care worksheet, form HC- 12(b) (see exhibit D), the investigator will determine if the employees sampled are ineligible for PHC coverage based on the payroll records and timecards provided. A subsequent interview with the employees (see exhibit E) will confirm or refute their ineligibility.

4. *Conclusion of Compliance Assistance Visit*

Upon completion of the compliance visit, the investigator will review the compliance assistance check list and determination of eligibility for the health care worksheet for completeness. The investigator will inform the employer of the findings, recommendations and corrective actions that are required should violations be present during an exit briefing with the employer.

5. *Report of Findings*

The investigator will draft and mail a letter to the employer detailing the findings of the compliance check and explaining any necessary corrective action that needs to be taken. The letter will allow the employer 30 days to implement any recommendations.

The investigator will compile all compliance check documents and a summary report stating whether the employer was in compliance or not with any of the three laws and the number and type of violations uncovered. The report will be submitted to the Investigation Section Supervisor upon completion.

The investigator will follow up within 30 days with any employer found to have violated the PHC Act to verify that the infractions have been corrected.

Any employer that has failed to voluntarily correct any deficiencies notated in the compliance check letter will be assessed a penalty and/or be referred to the Attorney General's Office for injunction.

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COMPLIANCE ASSISTANCE QUESTIONNAIRE

EMPLOYER'S NAME: _____ DOL #: _____

WC COVERED/EXEMPT: _____

CONTACT: _____ PHONE #: _____

TITLE: _____ DATE: _____

BACKGROUND

NATURE OF BUSINESS _____

DBA _____

AVG # OF EE'S _____

PAYROLL PERIOD _____

WORK WEEK _____

PHC

NAME OF PHC CARRIER(S) _____

COVERED EE'S _____

EXEMPT EE'S _____

INELIGIBLE EE'S _____

CURRENT HC-5 WAIVER FORMS ON FILE? _____

TDI

NAME OF TDI CARRIER(S) _____

WC

NAME OF WC CARRIER(S) _____

**DISABILITY COMPENSATION DIVISION
COMPLIANCE CHECK LIST**

EMPLOYER _____ DATE _____

ADDRESS _____ ACCOUNT NO. _____

1. Address where check performed: _____
Place of business () Accountant's Office () Other: _____
2. Name of person contacted: _____
3. Records Examined: _____

TYPE OF RECORD

(E) – EXAMINED

EXTENT OF EXAMINATION

PHC Premium Reports		
Individual Payroll Records		
Payroll Journal		
Time Sheets/Books		
Cash Journal or Check Disbursements Records		
Check Stubs/Cancelled Checks		

Others _____

4. Verified status of ownership _____
Verified trade name(s) Yes _____ No _____
5. Form DC-50, "Notice to Workers" posted? Yes _____ No _____
If No, was a form left with the employer? Yes _____ No _____
6. Does employer have any excludable services? Yes _____ No _____
Type of excludable services: _____

Remarks:

EMPLOYEE INTERVIEW QUESTIONNAIRE

EMPLOYER _____ DATE _____

EMPLOYEE _____

OCCUPATION _____

DATE HIRED _____

HRS WORKED/WEEK _____

PHC STATUS: (Per Employer)

EXEMPT _____ INELIGIBLE _____

IF EXEMPT, DID EMPLOYEE SIGN FORM HC-5? YES ____ NO ____

DOES EMPLOYEE HAVE OTHER PHC COVERAGE? YES ____ NO ____

IF NO, EXPLAIN:

WAS EMPLOYEE COERCED TO SIGN FORM HC-5? YES ____ NO ____

IF YES, EXPLAIN:

DOES EMPLOYEE WORK ANY HOURS FOR CASH? YES ____ NO ____

IF YES, EXPLAIN:

IS THE EMPLOYEE AWARE OF ANY PHC VIOLATIONS? YES ____ NO ____

IF YES, INVESTIGATE AND EXPLAIN:

