

# Workers Compensation Claim State Environmental Guide - Hawaii

HAWAII – <http://labor.hawaii.gov/dcd/>

## Indemnity issues

|                            |   |
|----------------------------|---|
| Temporary Total Benefits   | <p>Waiting period: first three calendar days</p> <p>Payment: Weekly benefit subject to sixty-six and two-thirds per cent of the employee's average weekly wages</p> <p>Min: 2017: \$212.00, 2018: \$221</p> <p>Max: 2017: \$846.00, 2018: \$883</p> <p>Unlimited Benefits: Termination upon order of Director or if the employee is able to resume work (HRS 386-31:b)</p>  |
| Temporary Partial Benefits | <p>Waiting period: n/a</p> <p>Payment: Weekly benefit subject to sixty-six and two-thirds per cent of the difference between the employee's average weekly wages before the injury and employee's weekly earning thereafter.</p> <p>Min: 2017: \$212.00, 2018: \$221</p> <p>Max: 2017: \$846.00, 2018: \$883</p> <p>No limit on this benefits</p>   |
| Permanent Partial Benefits | <p>Calculation: Multiplying the effective year maximum weekly benefit rate by the number of weeks for the specific the disability by the percentage of disability (AMA Guide 5<sup>th</sup> edition)</p>  |
| Permanent Total Benefits   | <p>Waiting period: No adjudication of permanent total benefits shall be made until after two weeks from the date of the injury</p> <p>Min: 2017: \$212.00, 2018: \$221</p> <p>Max: 2017: \$846.00, 2018: \$883</p> <p>Payment: Weekly benefit subject to sixty-six and two-thirds per cent of the employee's average weekly wages</p>   |
| Fatality Benefits          | <p>Funeral allowance: Payment not to exceed ten times the maximum weekly benefit rate.</p> <p>Burial allowance: Payment not to exceed five times the maximum weekly benefit rate.</p> <p>Weekly benefits for dependents: Various percentages of deceased's average weekly wages subject to maximum and minimum weekly benefit rate divided by .6667</p> <p>No dependents: Payment equal to twenty –five per cent of three hundred and twelve times the effective maximum weekly benefit rate.</p> |

**Indemnity issues**

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| Vocational Rehabilitation   | Within one hundred twenty days from the date of injury based on physician reports or other information, the Employer shall provide information on the employee's rights to vocational rehabilitation, instructions on how to select a vocational rehabilitation provider, an employee selection form and a list of current certified vocational rehabilitation counselors to the employee. Employee has thirty days from the date the Employer provides the information to the employee to make a selection. |
| Settlement Allowed          | Yes. Settlement is allowed if employee is at maximum medical improvement and there is a permanent partial disability rating.   |
| Cap on benefits, exceptions | None   |

**Medical issues**

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| Initial Choice of Provider             | Employee choice state. 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 may authorize the selection of a specialist practicing outside the State where no comparable medical attendance within the State is available.  |
| Change of Provider                     | If for any reason during the period when medical care is needed, the 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. Employee is only allowed one change, changes subsequent to the first change require prior approval by the director or agreement by the employer. |
| Medical Fee Schedule                   | Medical fee schedule first authorized in 1961. Effective in 1995, fee for services are not to exceed 110 percent of the state's Medicare Resource Based Relative Value Scale for Hawaii. Hospital charges paid at the Medicare rate plus ten percent. Prescription drugs charges reimbursed at average wholesale price plus 40% plus a dispensing fee.   |
| Managed Care                           | No explicit managed care program in effect. A managed care arrangement may be implemented by an employer/insurer so long as it does not interfere with the employee's right to select a treating provider.   |
| Utilization Review                     | No explicit utilization review regulations in place.   |
| Treatment Guidelines                   | As set forth in the medical fee schedule.  |
| Generic Drug Substitution              | The state mandates generic substitution.   |
| Medical Mileage Reimbursement Rate     | If a medical specialty is not available on the island the worker resides on, airfare is compensable. Otherwise, mileage of \$0.555 per mile is available for every medical service.  |
| Network Information                    | First Health is primary with Corvel as secondary network.  |
| Ability to Terminate Medical Treatment | Medical benefits can be terminated once a physician has provided written comment that a condition has reached maximum medical improvement or has returned to baseline status if there was a pre-existing condition.  |

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**Medical issues**

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| Settlement Allowed          | Yes.  |
| Cap on benefits, exceptions | None. |

**Other Issues**

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| WC Hearing Docket Speed                                  | Administrative Hearings are usually held within 30-60 days.  |
| Staff Counsel  | No staff counsel available. Panel counsel options include:<br>Ayabe, Chong, Nishimoto, Sia & Nakamura<br>1001 Bishop Street<br>Pauahi Tower 2500<br>Honolulu, HI 96813<br>Ph: (808) 537-6119<br><br>Leong Kunihiro Benton & Brooke<br>841 Bishop St., Ste 1212<br>Honolulu, HI 96813<br>Ph: (808) 524-7575<br><br>Law Firm of Leighton Oshima<br>841 Bishop St. Ste 2000<br>Honolulu, HI 96813<br>Ph: (808) 538-0040 |
| Hearings require attorney or claim handler participation | The claim handler can represent the employer at the initial Administrative Hearing level. Appeals require attorney representation.   |
| Occupational Diseases                                    | Handled same as injury claims.   |
| Second Injury Fund availability                          | Yes  |
| Other Offset Opportunities                               | Apportionment, contribution, etc.  |
| EDI  | Not Applicable   |
| In-State Adjusting Required                              | Yes (HRS 386-124.5 Insurer's requirements; failure to maintain claims service office; penalty; injunction)   |