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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12 MED-QUEST DIVISION

CHAPTER 1709.3

STATE WITH FEDERAL MATCH FUNDED HAWAII PREMIUM PLUS

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-1709.3-1 Purpose. This chapter is established to authorize, subject to the availability of state funding, a temporary state with federal match funded program to prevent, shorten, or eliminate the need for medical or other public assistance administered by the department. Hawaii premium plus provides employers an incentive to increase employment by providing a monthly premium subsidy for health insurance to qualified employees for one year. At a minimum, the health insurance shall meet the requirements of the Hawaii Prepaid Health Care Act. [Eff 09/17/10] (Auth: HRS §§346-14, 346-26)(Imp: HRS §§346-14, 346-26)

§17-1709.3-2 Definitions. As used in this chapter:

"Department" means the department of human services of the State of Hawaii or its designee.

"Eligible employer" means an employer who meets the requirements of an eligible employer as described in §17-1709.3-7.

"Full-time" means an individual working a minimum of thirty-two hours per week.

"Hawaii premium plus" means the temporary state with federal match funded premium subsidy program described in this chapter.

"Hawaii Prepaid Health Care Act" means Hawaii Revised Statutes, chapter 393.

"Health plan" means an insurance company or other organization, which provides different health care benefit packages to one or more groups of enrollees.

"Maintenance period" means the twelve consecutive month period immediately following the reimbursement period during which the employer maintains the employee

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on its payroll without receiving any additional premium subsidy from the department.

"Premium subsidy" means a payment amount up to \$140 not to exceed fifty percent of the employer's monthly payment for a health insurance policy that covers the qualified employee and any others on that policy.

"Qualified employee" means an individual who meets the requirements of a qualified employee as described in section 17-1709.3-8.

"Reimbursement period" means the twelve consecutive month period that the qualified employee is employed by the eligible employer, beginning with the effective date of participation as described in section 17-1709.3-11, for which an eligible employer may receive a premium subsidy.

"Unemployment insurance benefits" means temporary financial assistance to workers who are unemployed through no fault of their own and who meet the requirements of the Hawaii Employment Security Law, Hawaii Revised Statutes, chapter 383.

[Eff 09/17/10] (Auth: HRS §§346-14, 346-26)(Imp: HRS §§346-14, 346-26)

§17-1709.3-3 General provisions. The following provisions are specific to this chapter:

- (1) This program, which is unlike the medical assistance programs administered by the department of human services, shall not be subject to the rules of this subtitle, except as specifically set forth in this chapter;
- (2) The provisions of chapter 17-1704 addressing fraud shall apply to this program. However, in applying chapter 17-1704 to this program, the terms "medical assistance" and "Medicaid" in chapter 17-1704 shall be replaced by the term "Hawaii premium plus program";
- (3) The provisions of subchapter 7 of chapter 17-1705 addressing recipient recovery shall apply to this program. However, in applying subchapter 7 of chapter 17-1705 to this program, the terms "medical assistance" and "recipient" in subchapter 7 of chapter 17-

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1705 shall be replaced by the terms "Hawaii premium plus program" and "eligible employer," respectively;

- (4) The department shall administer this program; and
- (5) This program shall be subject to the availability of state funds.
[Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§§17-1709.3-4 to 17-1709.3-5 (Reserved)

SUBCHAPTER 2

HAWAII PREMIUM PLUS

§17-1709.3-6 Purpose. This subchapter describes who may participate in Hawaii premium plus and the requirements for participation.

[Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-7 Requirements for an eligible employer. An eligible employer shall:

- (1) Not be a city, county, state or other government entity;
- (2) Meet all of the requirements of the Hawaii Prepaid Health Care Act;
- (3) Have the appropriate licensure to operate in the State;
- (4) Provide their state and federal taxpayer identification numbers; and
- (5) Intend to employ a qualified employee full-time for a minimum of twenty-four consecutive months. [Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-8 General requirements for a qualified employee. A qualified employee is an individual who:

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- (1) Meets the citizenship requirements as described in section 17-1714-28;
- (2) Is legally residing in Hawaii;
- (3) Is age eighteen years old or older;
- (4) Meets the financial requirements for a qualified employee as described in section 17-1709.3-9;
- (5) Has been unemployed for a minimum of six consecutive weeks immediately prior to employment by the eligible employer, and who during this period either was receiving unemployment insurance benefits or had exhausted their unemployment insurance benefits;
- (6) Is employed by an eligible employer for a full-time position commencing on or after May 1, 2010, up to a date determined by the department that is no later than April 30, 2011;
- (7) Is enrolled in a health plan offered by the eligible employer that meets all the requirements of the Hawaii Prepaid Health Care Act; and
- (8) Is not an independent contractor.
[Eff 09/17/10] (Auth: HRS §§346-14,346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-9 Financial requirements for a qualified employee. (a) A qualified employee's countable family income shall not exceed four hundred per cent of the federal poverty level for Hawaii for a family of applicable size.

(b) Countable family income shall be determined by adding the monthly gross earned and any unearned income for each household member of the employee as described in chapter 17-1724.

(c) Income from the employment by an eligible employer shall be reported and considered as earned income in the application for Hawaii premium plus.

(d) An individual may not be a qualified employee if the individual has substantial assets as determined by the department. [Eff 09/17/10]
(Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

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§17-1709.3-10 Application for Hawaii premium plus. (a) The maximum cumulative statewide number of individuals determined to be qualified employees for Hawaii premium plus program under this chapter and Hawaii premium plus under chapter 17-1709.2 shall be 6,450.

(b) After the cumulative statewide number of individuals determined to be qualified individuals reaches 6,450, the department may determine an individual to be a qualified employee if:

- (1) The number of participating qualified employees on the date of determination is less than 6,450; and
- (2) There is available funding which meets the amount equal to twelve months of premium subsidy to be paid to the employer for the individual.

(c) An employer shall submit a completed application to become a Hawaii premium plus eligible employer in a format prescribed by the department. At a minimum, the employer shall:

- (1) Attest that the employer meets all of the criteria in section 17-1709.3-7;
- (2) Provide the total number of the employer's full-time employees on January 1, 2010; and
- (3) Agree to the terms of the employer participation agreement established by the department.

(d) An eligible employer shall submit a completed application to enroll an employee separately for each employee, in a format prescribed by the department. At a minimum, the employer shall:

- (1) Attest that the employee meets all the criteria in section 17-1709.3-8; and
- (2) Provide the total number of full-time employees that are not enrolled in Hawaii premium plus as of the date of the employee's employment.

(e) The number of full-time employees described in subsection (d)(2) must be equal to or greater than the number described in subsection (c)(2) for an application to enroll an employee to be considered for determination.

(f) An application to enroll an employer or to enroll an employee shall be considered complete when

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all required information is provided. If all required documents are received, but information is missing or incomplete, the application shall be denied for being incomplete. The employer may resubmit a complete application.

(g) The department shall accept and process an application to enroll an employee in Hawaii premium plus until the statewide number of qualified employees reaches the maximum allowed under this section.

- (1) Completed applications shall be processed in an order as determined by the department.
- (2) Once the statewide number of qualified employees reaches the maximum allowed under this section, all received completed applications without a determination shall be placed on a waitlist for determination as described in subsection (b).
- (3) The determination for participation in Hawaii premium plus shall be made by the department.
[Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-11 Effective date of participation.
The effective date of an eligible employer's participation in Hawaii premium plus for a qualified employee shall be:

- (1) The first day of the month in which a full month's health insurance is provided for that employee through the eligible employer;
- (2) No earlier than May 1, 2010; and
- (3) No earlier than the day on which the qualified employee started employment.
[Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-12 Termination from participation. An eligible employer's participation in Hawaii premium plus:

- (a) Shall be terminated for any of the following reasons:
 - (1) Fails to meet any one of the requirements described in section 17-1709.3-7;
 - (2) Voluntarily terminates participation; or

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(3) Business is dissolved.

(b) May be terminated for failure to comply with the reporting requirements. [Eff 09/17/10]
(Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§§17-1709.3-13 to 17-1709.3-16 (Reserved)

SUBCHAPTER 3

SPECIAL PROVISIONS

§17-1709.3-17 Purpose. This subchapter describes special provisions for the eligible employer and qualified employee. [Eff 09/17/10]
(Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-18 Reporting requirements for the eligible employer. (a) The eligible employer shall submit a completed report in a format prescribed by the department. The report shall be due to the department by the fifteenth of the month following the conclusion of the reporting period, as determined by the department.

(b) The eligible employer shall attest that the information provided under subsection (a) is true and accurate. Any intentional false statements may be prosecuted under Hawaii Revised Statutes section 710-1063.

(c) The eligible employer shall notify the department, in a format prescribed by the department, when a qualified employee is no longer employed by the eligible employer by the end of the month in which the employment ends.

(d) Failure to comply with the reporting requirements may result in withholding of payment, recoupment, and termination from participation in Hawaii premium plus. [Eff 09/17/10]
(Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

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§17-1709.3-19 Appeals. An eligible employer may request a review by the department if unsatisfied with a decision made by the department. Requests for review shall be submitted in writing within ten days from the date the decision is rendered. If the request is untimely, it shall be denied. A decision under this subsection shall be final and conclusive.
[Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-20 Payment of premium subsidy to an eligible employer. (a) The department shall pay the eligible employer or its designee premium subsidies for the reimbursement period for each qualified employee.
(b) The amount of the monthly premium subsidy shall be up to \$140 and not exceed fifty percent of the employer's monthly payment for a health insurance policy that covers the qualified employee and any others on that policy. [Eff 09/17/10]
(Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-21 Hawaii premium plus program termination. The Hawaii premium plus program shall terminate:

- (1) On May 1, 2013;
- (2) Due to a lack of state funds; or
- (3) When the program is terminated or repealed.
[Eff 09/17/10] (Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§17-1709.3-22 Recoupment. (a) An eligible employer shall face a penalty if the eligible employer:

- (1) Released a qualified employee before the end of the reimbursement period;
- (2) Released a qualified employee before the end of the maintenance period; or
- (3) Intentionally provided false information about the qualified employee or eligible employer, or both.

(b) The penalty shall be recoupment of an amount equal to:

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- (1) For subsection (a)(1), the total amount of the premium subsidy paid to the eligible employer for the affected qualified employee.
 - (2) For subsection (a)(2), the amount of premium subsidy paid for the number of months equivalent to the number of full or partial months remaining in the maintenance period.
 - (3) For subsection (a)(3), the amount determined by applying paragraphs (1) or (2), or both.
- (c) An eligible employer shall not be subject to a penalty of recoupment according to subsection (a)(1) or (a)(2) in the following situations:
- (1) The qualified employee voluntarily terminates employment;
 - (2) The qualified employee is released for cause. Causal situations include, but are not limited to, the following:
 - (A) Unexcused absence or recurring unexcused tardiness;
 - (B) Altercation at work;
 - (C) False statements by the qualified employee to the eligible employer (including false information provided by the qualified employee for the application to enroll the employee in Hawaii premium plus);
 - (D) Qualified employee's gross neglect of duty;
 - (E) Qualified employee's willful disobedience of eligible employer's directives or qualified employee's insubordination;
 - (F) Intentional conversion of eligible employer's property by the qualified employee;
 - (G) Qualified employee's unauthorized use of intoxicants on the job;
 - (H) Qualified employee's willful and substantial abuse of the eligible employer's equipment or property;
 - (I) Lack of work as a result of the state of the economy; or
 - (J) Other situations approved by the department; or

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(3) The program is terminated as described in section 17-1709.3-21.

(d) An eligible employer shall be subject to recoupment in the amount pro rated for the period during which a premium subsidy was paid but the qualified employee was not receiving health insurance through the eligible employer.

(e) If an eligible employer fails to meet the reporting requirements as described in section 17-1709.3-18, the eligible employer may be subject to a penalty of recoupment of an amount up to the amount of premium subsidy paid for the number of months equivalent to the number of months for which the reporting requirement was not met.

(f) The eligible employer must provide all requested information and documentation within the specified timeframe or may be subject to a penalty of recoupment of an amount up to the amount of premium subsidy paid for the number of months equivalent to the number of months for which the information or documentation request was not met.

(g) If an eligible employer is terminated from participation in Hawaii premium plus as described in section 17-1709.3-12, the eligible employer shall be subject to recoupment as described in subsection (b) for each qualified employee as if that qualified employee was released. [Eff 09/17/10]
(Auth: HRS §§346-14, 346-26) (Imp: HRS §§346-14, 346-26)

§§17-1709.3-23 to 17-1709.3-25 (Reserved)

