

Worker Protective Labor Laws in Hawai'i, Part 2

UI, TDI, PHC

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Unemployment Insurance, [HRS 383](#)

Officially known as the Hawai'i Employment Security Law, this law requires employers to pay taxes for each of their workers into an account from which benefits are paid out to covered workers who become involuntarily unemployed. Some benefits paid to employees are charged to the employer's account or paid out of the state's UI Trust Fund.

Hot Link to State DLIR Web-site: [Unemployment Insurance Administrative Rules, Title 12, Chapter 5](#)

To be eligible for UI benefits an unemployed individual must meet the following qualifications:

- Must file a claim with the state's UI division.
- Must register for work and report to the employment office as required
- Must be able and available for work unless claimant is ill or disabled after filing the initial claim.
- Must have been unemployed for a one week waiting period, which period is not compensable.
- Must meet the work and earnings test. i.e. been paid wages during at least two quarters in a designated base period, in each of which he/she worked at least 2 days or 4 hours; and must have been paid wages in the base period of at least 26 times the claimant's weekly benefit amount.
- Must not be a voluntary quit/resignation.*
- Must not have been discharged for misconduct connected with work. The misconduct standard is not met by "mere inefficiency, unsatisfactory conduct, poor performance because of inability or incapacity, isolated instances of ordinary negligence or inadvertence, or good faith errors of judgement or discretion." (§12-5-51(c) Administrative Rules)
- Must apply for work and not refuse suitable employment without good cause.**
- Must not make a false statement or representation on the claim.
- Must not be receiving UI benefits from another state.

**If you have an *Adobe Acrobat Reader*, you can download
The State Administrative Rules, [[Title 12, Chapter 5](#)] for UI.**

State of Hawai'i Unemployment Insurance Division:

In Honolulu call 586-8970 or 586-8971

In Waipahu call 675-0030

In Kane'ohe call 233-3677

On Maui call 984-8400

On Moloka'i call 553-3631
In Hilo call 974-4086
In Kona call 322-4822
On Kaua'i call 274-3043

The Weekly Benefit Amount is computed at 1/21 of the total of the claimant's highest quarter wages in the base period, but may not exceed a state maximum.

Maximum Weekly Benefit Amount for 2023 =\$763

Maximum Weekly Benefit Amount for 2022 =\$695

Benefits may extend for a maximum of 26 weeks and must be paid "promptly" in accord with the decision of the UI Division, even when appeals (to Referee or court) may be pending. If the decision is reversed, benefits are discontinued. Claimants who receive benefits by mistake are liable for repayment unless the overpayment was made without fault of the claimant or where recovery would be against equity or good conscience.

* Generally strikers are not eligible for UI benefits. However, the Department has ruled that the disqualification only exists where the labor dispute has caused or resulted in a work stoppage in which there is a 'substantial curtailment of the business activities at the employer's establishment.' Such determinations are made on a weekly basis.

State regulation (§12-5-47) also provides that a voluntary separation may still be eligible if resignation was for good cause, which may be found for the following reasons:

1. Change in working conditions and the change is prejudicial or detrimental to the health, safety, or morals of the claimant;
2. Change in conditions or terms of employment, including, but not limited to: change in rate of pay, position or grade, duties, days of work, or hours of work;
3. Discrimination which violates federal or state laws regarding equal employment opportunity practices;
4. Change in employee's marital or domestic status;
5. Acceptance of a definite, firm offer made of other employment where the offer is substantially withdrawn and the former employer refuses to rehire the employee;
6. Retirement under a mandatory retirement imposed by a collective bargaining agreement; or
7. Any other factor relevant to a determination of good cause.

** The work is considered unsuitable when:

1. the position offered is vacant due directly to a strike, lockout or other labor dispute;
2. the wages, hours or conditions are substantially less favorable than those prevailing for similar work in the locality; and
3. if as a condition of being employed the individual would be required to join a company union or to resign or refrain from joining any bona fide labor organization ([HRS §383-30](#)).

If you have an *Adobe Acrobat Reader*, you can download these useful materials from the State of Hawai'i DLIR website:

[UI Forms](#)

[Step-by-step process for claimants](#)

[The Hawai'i UI Employers Handbook](#)

[Unemployment Insurance for Workers Poster](#)

[Information on Unemployment Benefits Handbook](#)

[Unemployment Insurance Instructions on filing claims using Hawai'i Tele-Claim \(telephone filings service\)](#)

[Information on the Federal Extended Benefits Program](#)

[Information on the Trade Adjustment Assistance \(TAA\) program](#)

Hawai'i's Additional Unemployment Compensation Law, [HRS 385](#)

Hawai'i law provides for additional unemployment benefits where the unemployment is proximately caused by a natural or manmade disaster striking the State or any of its counties. The additional benefits shall be operative upon the governor's issuance of a proclamation specifically invoking this chapter. There is no waiting period, but the maximum benefits payable are for 13 weeks.

Dislocated Workers [HRS §394B](#) and WARN (29 U.S.C. §2101-2109)

Under Hawai'i's State law employers who have 50 or more employees at any time in the previous year are required to give employees and the State Department of Labor 60 days' notice of a business closing, partial closing or relocation of operations. Employers are also required to provide a dislocated worker allowance to each former worker who qualifies for unemployment compensation benefits. The "allowance" is calculated to be the difference between the worker's average weekly wage and his/her unemployment benefit. Employees seeking to enforce the Act must file suit in state court, but may seek court costs and attorney's fees as part of the settlement.

[\ State Administrative Regulations, Title 12, Chapter 506](#)

In 1988, the Congress enacted a similar law known as [WARN, Worker Adjustment and Retraining Notification Act](#), the federal law requires employers with 100 or more employees to give workers a 60-day warning if they shut down a facility with 50 full-time employees or lay-off one third of the work force at a "single site" for more than six months. Since the law doesn't say how long an affected worker has to file such a claim, the US Supreme Court has ruled that time limit to file a claim under the Federal Act should be borrowed from similar state statutes.

Hawai'i Temporary Disability Insurance Law, [HRS 392](#)

[DCD Employers' Orientation Workshop Presentation](#)

Hawai'i's TDI law requires employers to provide reasonable compensation for wage loss to employees who become sick or disabled from non-work-related causes. It is basically a legally required sick leave program to cover absences not otherwise covered by Workers' Compensation. To be eligible, an employee must have been in employment for at least 14 weeks during each of which the individual has received remuneration in any form for 20 or more hours and earned wages of at least \$400 during the fifty-two weeks immediately preceding the first day of disability.

Disabled workers are entitled to 58% of their average weekly wage or a Maximum Weekly Wage Base (whichever is less) after a seven day waiting period for as long as 26 weeks.

Maximum Weekly Benefit Amount for 2023 = \$765

State of Hawai'i Disability Compensation Division for TDI:

On O'ahu call 586-9188

State Dept. of Labor District Offices:

On Maui call 243-5322

In Hilo call 974-6464

For West Hawai'i call 322-4808

On Kaua'i call 274-3351

State Brochure: [Highlights of Hawaii's TDI Law](#)

The details of the plan required by this law may be waived by the State Department of Labor (DLIR) if the employer can show evidence that the employer has a plan equivalent in over-all benefits, but in any case coverage must extend for at least two weeks beyond the termination of employment.

A disabled employee needs to file a claim on the state TDI-45 form with the employer within 90 days after the beginning of the period of disability. Benefits must be paid within 10 days from the date that proof of the claim was received. The cost to provide TDI benefits may be shared by the employee provided that this share does not exceed one-half of total cost of the policy and/or .5 percent of the weekly wage base.

In the event an employer denies a Workers' Compensation claim, it must pay out the TDI benefits due and seek reimbursement from the WC carrier in the event the DLIR declares the claim compensable later.

**If you have an *Adobe Acrobat Reader*, you can download
The State Administrative Rules, [[Title 12](#), [Chapter 11](#)] for TDI.**

Hawai'i Prepaid Health Care Act, [HRS 393](#)

The Prepaid health Care Act Compliance Assistance

This law requires private sector employers to provide a minimum medical plan approved by the Director of the State Department of Labor (DLIR) and roughly equivalent to the benefits provided by HMSA Plan 4 or Kaiser Plan B.

To be eligible an employee must work twenty or more hours per week for four consecutive weeks and earn a monthly wage of at least 86.67 times the minimum hourly wage (\$6.25).

State of Hawai'i, Department of Labor & Industrial Relations
contact number for PHC:
(808) 586-9188

State Brochure: [Highlights of Hawaii's PHC Law](#)

The cost of providing PHC may be shared by the employee provided that this share does not exceed the lesser of one-half of total cost of the policy or 1.5% of the employee's monthly wages. In the event an employee is disabled and unable to work, the employer is obligated to enable the employee to continue health care coverage by continuing the employer's share of the PHC premium cost for three months following the month during which the employee became disabled. The employee must maintain the employee's portion of the premium payments

As in TDI cases, in the event of a disputed Workers' Compensation claim, PHC must pay the medical expenses and await reimbursement from the WC carrier in the event the DLIR declares the claim compensable later.

If you have an *Adobe Acrobat Reader*, you can download:

The State Administrative Rules, [[Title 12, Chapter 12](#)] for PHC.

The State's "Employee Notification to Employer" [[HC-5](#)] form for calendar year 2012.

The State's "Health Care Coverage Questionnaire" [[HC-4](#)].

The State's "Small Employers Subject To PHC / Employer's Request for Premium Supplementation" [[HC-6](#)].

The State's "Application For Self-Insurance Authorization" [[HC-61](#)].

[Back to CLEAR Home Page](#)