

# Employers' Compliance with the Health Insurance Act 1970 **ANNUAL REPORT**



**2019**

# Employers' Compliance with the Health Insurance Act 1970 2019 Annual Report

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If you would like any further information about the Bermuda Health Council, or if you would like to bring a healthcare matter to our attention, we look forward to hearing from you.

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## **AUTHORITY:**

Per Section 20 of the Health Insurance Act 1970 (the Act), the Bermuda Health Council monitors the extent to which employers are compliant with obtaining health insurance coverage for employees.

## **SUMMARY:**

- ❖ There was a 26% increase in the total number of inactive policies reported by insurers and a 29% increase in the total number of affected employees reported in 2019 compared to 2018.
- ❖ A minimum of \$494,592 was recovered in Standard Premium Rate (SPR) on behalf of employees.
- ❖ 98 employers were posted on the Health Council's website.
- ❖ 73 employer compliance complaints were received in 2019, reflecting a 33% increase from 2018.
- ❖ 4 inspections were conducted during the reporting period of 1<sup>st</sup> January 2019 - 31<sup>st</sup> December 2019.
- ❖ 2 employers faced charges for non-compliance with the Health Insurance Act 1970.

## **METHODOLOGY:**

1. The Health Council monitors employer compliance with the Act by investigating complaints received from members of the public and monthly reports obtained from local insurers about employers with:
  - Inactive policies (with claims not being paid)
  - Terminated policies
  - New policies
2. Data was provided from the public and private insurers for 1<sup>st</sup> January 2019 – 31<sup>st</sup> December 2019. Insurers provide a monthly report that includes a list of policies in arrears or terminated with claims not being paid. The Health Council then sends each employer a letter via email to notify them of their non-compliant status and legal obligations according to the Act. Employers are given two weeks to provide proof of coverage, such as a statement or email from their insurer. If a response is not received, follow-up emails and phone calls are conducted. Those employers who fail to provide evidence of a current policy face having their company name published on the Health Council's website, the inspection of employment records, and/or criminal prosecution.
3. The Health Council investigates all complaints reported by members of the public regarding employer compliance. Investigating complaints involves the collection of evidence such as pay stubs, medical bills and employment contracts. Insurers are also asked to verify the complainants' policy status and history. Once evidence is collected, the employer is contacted regarding the complaint. If necessary, an on-site inspection of employer financial and employment records is conducted. Resolution of complaints involve the repayment of unlawful deductions, payment of medical bills incurred during non-coverage, and activation of health insurance coverage.

4. For persistent non-compliance, the Health Council facilitates legal action in the criminal courts. Preparing a case file for the Department of Public Prosecution (DPP) entails obtaining witness statements from the complainant(s), insurer, Health Council Project Manager, and any other relevant individuals. These statements are then provided to the DPP for review.

## **RESULTS:**

5. 436 employer policies were reported by insurers as inactive or terminated in 2019, with 2,428 employees affected. It is important to note that these calculations include some policies that were reported for two or more consecutive months and therefore counted two or more times. These figures also include policies that were reported as terminated by an insurer, but were transitioned to another insurer, thus not impacting employee coverage.
6. There was a 26% increase in the total number of inactive policies reported and a 29% increase in the total number of affected employees reported in 2019 compared to 2018.
7. Of the employers investigated in 2019 for having inactive health insurance policies, 39% of policies were reactivated. This resulted in 1,392 employees regaining health insurance coverage.
8. A minimum of \$494,592 was recovered in premium in 2019. This figure is based on an uninsured employee's monthly SPR coverage: 1,392 employees x \$355.31.
9. 12% of reported policies transitioned to another insurer, so employee coverage was not impacted. 6% of businesses closed or removed all employees from the plan.
10. Web publication of non-compliant employers on the Health Council's website was implemented in June 2015. A total of 98 non-complaint employers were posted on the website in 2019.
11. 73 employer compliance complaints were received in 2019. This compares to 55 complaints received in 2018, reflecting a 33% increase in the number of complaints compared to 2018. It was noted that a significant number of complaints were received from work permit-holding employees, as well as individuals employed by nursing homes and preschools.
12. 4 inspections of employment records occurred in 2019.
13. Two cases went before the courts in 2019. These cases were initiated in 2018. One of the businesses pled guilty and received a \$4000 fine. The fine was higher than usual, as the employer was found guilty of false accounting, after providing pay stubs showing deductions that were taken for health insurance and never applied. The other case is still pending, as the employer failed to appear in the most recent court hearing. There is a warrant out for his arrest.
14. Table 1 show the outcome of the Health Council's investigation efforts for each month in 2019.

**Table 1- Investigation Outcomes by Month**

Policy Type	Jan 2019	Feb 2019	March 2019	April 2019	May 2019	June 2019	July 2019	Aug 2019	Sept 2019	Oct 2019	Nov 2019	Dec 2019
Reported Inactive	14	42	14	31	35	30	61	42	36	42	45	44
Remained Inactive	6	12	10	14	10	9	14	19	25	22	22	25
Reactivated	8	28	3	16	22	11	22	12	2	18	16	11
Transitioned	0	1	0	0	3	9	17	7	5	1	7	1
Business Closed	0	1	1	1	0	1	8	4	4	1	0	7

## **CONCLUSION:**

15. Employer non-compliance with the Health Insurance Act 1970 remains prevalent. The continued increase in the number of complaints reported to the Health Council is a reflection of pervasiveness and also of greater public awareness.
16. Companies with 5 or fewer employees are the vast majority of businesses reported monthly by insurers as non-compliant.
17. The primary reason given by employers for non-compliance was the inability to afford their monthly health insurance premium. An increased use of hiring individuals as “independent contractors” is anticipated, as well as companies transitioning to less expensive plans that offer fewer benefits.