



Employers' Compliance with the Health Insurance Act 1970 ANNUAL REPORT 2020

Employers' Compliance with the Health Insurance Act 1970 2020 Annual Report

Contact us:

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.

Mailing Address:

PO Box HM 3381
Hamilton HM PX
Bermuda

Street Address:

3rd Floor Sterling House
16 Wesley Street
Hamilton HM11
Bermuda

Phone: 292-6420

Fax: 292-8067

Email: healthcouncil@bhec.bm

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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 20% increase in the total number of inactive policies reported by insurers and a 3% increase in the total number of affected employees reported in 2020 compared to 2019.
- ❖ A minimum of \$402,222 was recovered in Standard Premium Rate (SPR) on behalf of employees.
- ❖ 92 employers were posted on the Health Council's website.
- ❖ 24 employer compliance complaints were received in 2020, reflecting a 67% decrease from 2019.
- ❖ 16 inspections were conducted during the reporting period of 1st January 2020 - 31st December 2020.
- ❖ 2 cases were prepared for the DPP for prosecution for employer 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 1st January 2020 – 31st December 2020. 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.
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 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. 525 employer policies were reported by insurers as inactive or terminated in 2020, with 2,489 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 20% increase in the total number of inactive policies reported and a 3% increase in the total number of affected employees reported in 2020 compared to 2019.
7. Of the employers investigated in 2020 for having inactive health insurance policies, 43% of policies were reactivated. This resulted in 1,132 employees regaining health insurance coverage.
8. A minimum of \$402,222 was recovered in premium in 2020. This figure is based on an uninsured employee's monthly SPR coverage: 1,132 employees x \$355.31.
9. 6% of reported policies transitioned to another insurer, so employee coverage was not impacted. 3% 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 92 non-complaint employers were posted on the website in 2020.
11. 24 employer compliance complaints were received in 2020. This compares to 73 complaints received in 2019, reflecting a 67% decrease in the number of complaints compared to 2019. The significant decrease in complaints received was partially due to a more effective triaging process implemented by the Health Council, where complaints are only counted if they pertain to investigable concerns regarding non-compliance with the Health Insurance Act 1970.
12. 16 inspections of employment records occurred in 2020, compared to 4 inspections in 2019.
13. Two cases were referred to the DPP for prosecution in 2020. They will be heard in court in 2021. One case involves false accounting and faces a higher penalty, due to unlawful deductions taken from the employee's pay. The other case is a standard violation of the Health Insurance Act 1970, but involves an employer previously prosecuted for non-compliance.

Table 1 show the outcome of the Health Council’s investigation efforts for each month in 2020.

Table 1- Investigation Outcomes by Month

Policy Type	Jan 2020	Feb 2020	March 2020	April 2020	May 2020	June 2020	July 2020	Aug 2020	Sept 2020	Oct 2020	Nov 2020	Dec 2020
Reported Inactive	35	29	42	8	86	137	56	29	26	14	32	31
Remained Inactive	20	11	28	8	48	43	19	5	8	2	20	10
Reactivated	4	14	14	0	32	84	29	13	10	2	4	18
Transitioned	6	3	1	0	0	6	5	5	7	2	6	2
Business Closed	5	1	0	0	6	4	1	5	0	0	2	1

CONCLUSION:

14. Employer non-compliance with the Health Insurance Act 1970 remains prevalent. The Covid-19 pandemic significantly impacted employer compliance in 2020, due to the financial stress put on businesses. This is reflected in the notably high number of inactive policies reported in May and June 2020. A notable number of queries were received in 2020 from employees who did not receive health insurance coverage during layoff periods.
15. Companies with 10 or fewer employees are the vast majority of businesses reported monthly by insurers as non-compliant.
16. The primary reason given by employers for non-compliance was the inability to afford their monthly health insurance premium. A continued use of hiring individuals as “independent contractors” is anticipated, as well as companies transitioning to less expensive plans that offer fewer benefits. The Covid-19 pandemic will likely continue impacting the ability of small businesses to afford health insurance premiums.