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April 4, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Karl Rhoads, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

The Honorable Rosalyn H. Baker, Chair,  
The Honorable Clarence K. Nishihara, Vice Chair, and  
Members of the Senate Committee on Commerce, Consumer Protection,  
and Health

Date: Tuesday, April 4, 2017  
Time: 10:15 a.m.  
Place: Conference Room 016, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: SCR 80 Relating to Labor**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This resolution urges DLIR to prepare a checklist for employers wishing to offer a high deductible health plan for use with a health savings account to facilitate the submission and approval process.

The Department offers comments on this resolution.

**II. CURRENT LAW**

Chapter 393, Hawaii Revised Statutes (HRS), the Prepaid Health Care Law is an employer-based healthcare mandate. Section 393-11, HRS, requires that an employer provide an eligible employee with health insurance by a prepaid health care (PHC) plan qualifying under section 393-7, HRS. The PHC Advisory Council reviews these plans and makes a recommendation to the DLIR Director for approval or disapproval.

### **III. COMMENTS ON THE SENATE CONCURRENT RESOLUTION**

The health plan approval process ensures that all health plans offered to eligible employees maintain high standards in regards to health benefits, deductibles, out-of-pocket limits, and co-payments.

The Department could provide a general checklist to assist with the review process as to the required forms, documents, and required financial information for self-insured plans; however, DLIR could not “guarantee” the approval of the plan due to the possible variations in health benefits and any other aspects specific to that health plan. The PHC Advisory Council must use its discretion to recommend to the Director whether a plan should be approved or not. Assuming that the checklist provides a definitive path to approval would eliminate the discretion the council exercises during its review and approval process.

§393-7(b) reads, “A prepaid group health care plan shall also qualify for the mandatory health care benefits required under this chapter if it is demonstrated by the health care plan contractor offering such coverage to the satisfaction of the director after advice by the prepaid health care advisory council that the plan provides for sound basic hospital, surgical, medical, and other health care benefits at a premium commensurate with the benefits included taking proper account of the limitations, co-insurance features, and deductibles specified in such plan. Coverage under a plan which provides aggregate benefits that are more limited than those provided by plans qualifying under subsection (a) shall be in compliance with section 393-11 only if the employer contributes at least half of the cost of the coverage of dependents under such plan.”

The cost of the coverage to the employee under §393-7(a) and (b) is subject to limits on the amount of the employee portion for coverage pursuant to §393-13, which reads in part, “Unless an applicable collective bargaining agreement specifies differently every employer shall contribute at least one-half of the premium for the coverage required by this chapter and the employee shall contribute the balance; provided that in no case shall the employee contribute more than 1.5 per cent of the employee's wages; and provided that if the amount of the employee's contribution is less than one-half of the premium, the employer shall be liable for the whole remaining portion of the premium.”

Therefore, a high-deductible plan in tandem with a HSA could potentially qualify as a Prepaid plan as recommended by the Prepaid Health Care Advisory Council and approved by the Director, but only under §393-7(b) because high-deductible plans with HSAs have higher deductible amounts and higher out-of-pocket ceilings than would be allowed under §393-7(a).

**SCR 80  
URGING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO  
PREPARE A CHECKLIST FOR EMPLOYERS WISHING TO OFFER A HIGH  
DEDUCTIBLE HEALTH PLAN FOR USE WITH A HEALTH SAVINGS ACCOUNT TO  
FACILITATE THE SUBMISSION AND APPROVAL PROCESS FOR EMPLOYERS  
SEEKING SUCH PACKAGES**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**APRIL 4, 2017**

Chair Agaran, Chair Baker, and Members of the Senate Committees on Judiciary  
& Labor and Commerce, Consumer Protection & Health:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on SCR 80,  
“URGING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO  
PREPARE A CHECKLIST FOR EMPLOYERS WISHING TO OFFER A HIGH  
DEDUCTIBLE HEALTH PLAN FOR USE WITH A HEALTH SAVINGS ACCOUNT TO  
FACILITATE THE SUBMISSION AND APPROVAL PROCESS FOR EMPLOYERS  
SEEKING SUCH PACKAGES.” We support this resolution.

We understand that Health Savings Account Programs consist of high deductible  
health plans with a Health Savings Account approved pursuant to HRS Chapter 393.  
These programs generally allow employers and employees to fund a Health Savings  
Account to finance current or future out of pocket health costs. Contributions to Health  
Savings Accounts are tax advantaged, with all distributions from the account tax free.

Unused employer and/or employee funds remain in the account for the life of the enrolled employee.

We support this program as we believe that it will provide an additional health insurance option for both employers and employees. The tax advantaged deposits and expenditures from the Health Savings Account for medical expenses are envisioned to be an attractive benefit for employees. In addition, the personal control that one would have in expending funds from this account may also be a desirable alternative to other health plans.

Based on the aforementioned, we respectfully request your favorable consideration on this resolution.