

NOTICE TO REQUESTER

TO: request+m2cvgp2whv@foi.uipa.org
(Requester's name)

FROM: Department of Labor & Industrial Relations - Disability Compensation Division
Royden T. Koito / (808) 586-9153 / Royden.T.Koito@Hawaii.gov
(Agency, and agency contact person's name, telephone number, & email address)

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: December 2, 2021

DATE OF THIS NOTICE: January 3, 2022

GOVERNMENT RECORDS YOU REQUESTED (attach copy of request or provide brief description below):

1. See attached Request to Access a Government Record
- 2.
- 3.
- 4.

THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:

Will be granted in its entirety.

Cannot be granted. Agency is unable to disclose the requested records for the following reason:

- Agency does not maintain the records. (HRS § 92F-3)
Other agency that is believed to maintain records: _____
- Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: _____
- Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

Will be granted in part and denied in part, OR Is denied in its entirety

Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.

(Describe the portions of records that the agency will not disclose.)

RECORDS OR
INFORMATION WITHHELD

APPLICABLE
STATUTES

AGENCY
JUSTIFICATION

REQUESTER'S RESPONSIBILITIES:

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested. If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

METHOD & TIMING OF DISCLOSURE:

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days after this notice or after receipt of any prepayment required. HAR § 2-71-13(c). If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

Method of Disclosure:

- Inspection at the following location: _____
- As requested, a copy of the record(s) will be provided in the following manner:
- Available for pick-up at the following location: _____
- Will be mailed to you.
- Will be transmitted to you by other means requested: Electronic – See attachment

Timing of Disclosure: All records, or the first increment if applicable, will be made available or provided to you:

- On January 3 2022.
- After prepayment of 50% of fees and 100% of costs, as estimated below.

For incremental disclosures, each subsequent increment will be disclosed within 20 business days after:

- The prior increment (if one prepayment of fees is required and received), or
- Receipt of each incremental prepayment, if prepayment for each increment is required.

Records will be disclosed in increments because the records are voluminous and the following extenuating circumstances exist:

- Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
- Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
- Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- A natural disaster or other situation beyond agency's control prevents agency from responding to the request within 10 business days.

ESTIMATED FEES & COSTS AND PAYMENT:

FEES: For personal record requests under Part III of chapter 92F, HRS, the agency may charge you for its costs only, and fee waivers do not apply.

For public record requests under Part II of chapter 92F, HRS, the agency is authorized to charge you fees to search for, review, and segregate your request (even if a record is subsequently found to not exist or will not be disclosed in its entirety). The agency must waive the first \$30 in fees assessed for general requesters, OR in the alternative, the first \$60 in fees when the agency finds that the request is made in the public interest. Only one waiver is provided for each request. See HAR §§ 2-71-19, -31 and -32.

COSTS: For either personal or public record requests, the agency may charge you for the costs of copying and delivering records in response to your request, and other lawful fees and costs.

PREPAYMENT: The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. If a prepayment is required, the agency may wait to start any search for or review of the records until the prepayment is received by the agency. Additionally, if you have outstanding fees or costs from previous requests, including abandoned requests, the agency may require prepayment of 100% of the unpaid balance from prior requests before it begins any search or review for the records you are now seeking.

The following is an itemization of what you must pay, based on the estimated fees and costs that the agency will charge you and the applicable waiver amount that will be deducted:

For public record requests only:

Fees: Search	Estimate of time to be spent: _____ hours	\$
	(\$2.50 for each 15-minute period)	
Review & segregation	Estimate of time to be spent: _____ hours	\$
	(\$5.00 for each 15-minute period)	
Fees waived	<input type="checkbox"/> general (\$30), OR <input type="checkbox"/> public interest (\$60)	<\$ _____ >
	(Only one waiver per request)	
Other	_____	\$
	(Pursuant to HAR §§ 2-71-19 & 2-71-31)	
Total Estimated Fees:		\$

For public or personal record requests:

Costs: Copying	Estimate of # of pages to be copied: _____	\$
	(@ \$ _____ per page, pursuant to HRS § 92-21)	
Delivery	Postage	\$
Other	_____	\$
Total Estimated Costs:		\$

TOTAL ESTIMATED FEES AND COSTS from above: \$ 0.00

- The estimated fees and costs above are for the first incremental disclosure only. Additional fees and costs, and no further fee waivers, will apply to future incremental disclosures.
- PREPAYMENT IS REQUIRED** (50% of fees + 100% of costs, as estimated above) \$
- UNPAID BALANCE FROM PRIOR REQUESTS** (100% must be paid before work begins) \$

TOTAL AMOUNT DUE AT THIS TIME \$ 0.00

Payment may be made by: cash
 personal check payable to _____
 other _____

For questions about this notice or the records being sought, please contact the agency person named at the beginning of this form. Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies, and a requester must seek records directly from the agency it believes maintains the records. If the agency denies or fails to respond to your written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at (808) 586-1400, qip@hawaii.gov, or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.

REQUEST TO ACCESS A GOVERNMENT RECORD

This is a model form that may be used by a Requester to provide sufficient information for an agency to process a record request. Although the Requester is not required to use this form or to provide any personal information, the agency needs enough information to contact the Requester with questions about this request or to provide its response. This request may not be processed if the agency has insufficient information or is unable to contact the Requester.

DATE: 12-02-2021

TO: **Department of Labor & Industrial Relations**
Agency that Maintains the Government Record

dlir.director@hawaii.gov
Agency's Contact Information

FROM: request+m2cvgp2whv@foi.uipa.org
Requester's Name or Alias

request+m2cvgp2whv@foi.uipa.org
Requester's Contact Information

AS THE REQUESTER, I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the requested government record will prevent delays in locating the record. Attach additional pages if needed.

I would like to obtain all of the policies and procedures pertaining to **IME and IPE exams** that can be requested by employers and insurers. I need all pertaining policies and procedures about: who IME/IPEs are requested; what information is the requester required to submit in their request; what records and information are evaluated in relations to the request; who examines these pertinent records and information; how is the determination made whether the request is approved or denied; and who makes the approval/denial determination

After I receive the above requested information, I will be sharing it with local (Honolulu and Hawaii) organizations which provides help and services to injured Hawaii workers who have a temporary disability insurance or a workers' compensation claim

I WOULD LIKE: (Please check one or more of the options below, as applicable)

- To inspect the government record
- A copy of the government record: (Please check only one of the options below.) See the next page for information about fees and costs that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

- Pick up at agency (date and time): _____
 Mail (address): _____
 E-mail (address): request+m2cvgp2whv@foi.uipa.org
 Fax (toll free and only if available; provide fax number): _____
 Other, if available (please specify): _____

If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.

Electronic Audio Other (please specify): _____

Check this box if you are attaching a request for waiver of fees in the public interest (See waiver information on next page).

FEES FOR PROCESSING PUBLIC RECORD REQUESTS

You may be charged fees for the services that the agency must perform when processing your request for public records, including fees for making photocopies and other lawful fees. **The first \$30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over \$30 will be charged to you.** Fees are as follows:

Search for a Record	\$2.50 for 15 minutes
Review and Segregation of a Record	\$5.00 for 15 minutes

Generally, no search, review, and segregation fees may be charged if you are making a request for personal records that are about you.

WAIVER OF FEES IN THE PUBLIC INTEREST

As an alternative to the \$30 fee waiver (not in addition to), the agency may waive the first \$60 of fees for searching for, reviewing and segregating records when the waiver would serve the public interest. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

COSTS

The Agency may charge you any other lawful fees and the costs to copy and deliver your personal or public record request.

AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in *extenuating circumstances*, the agency must respond within 20 business days from the date of your request. If you have questions about the response time or the records being sought, you should first contact the agency and request to consult with the agency's UIPA contact person.

Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies and a requester must seek records directly from the agency. If the agency denies or fails to respond to your

written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at 808-586-1400, qip@hawaii.gov, or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.

REQUESTER'S RESPONSIBILITIES

You have certain responsibilities under section 2-71-16, Hawaii Administrative Rules, which include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees and costs, if assessed. The rules and additional training materials are available online at qip.hawaii.gov or from OIP.

Attachment to Notice-to-Requestor
Policies and Procedures pertaining to IME and IPE Exams

Note: This division does not maintain policies and procedures pertaining to the IME and IPE examinations you are asking about. Instead, the division follows and complies with the applicable Hawaii Revised Statutes (HRS) and Hawaii Administrative Rules (HAR).

Here is our response to the information you requested.

- All of the policies and procedures pertaining to IME and IPE exams that can be requested by employers and insurers;
 - Who IME/IPEs are requested;
 - An employer or insurance carrier can request an IME or IPE exam in accordance with Section 386-79, HRS, and Section 12-10-75, HAR (attached).
 - What information is the requestor required to submit in their request;
 - Information required by the requestor is found in Section 386-79, HRS, and Sections 12-10-75 and 12-15-51, Hawaii Administrative Rules (HAR) (attached).
 - What records and information are evaluated in relation to the request;
 - Records and information evaluated are what is on file and what is presented by the requesting party.
 - Who examines these pertinent records and information;
 - The WC Hearings Supervisor reviews and recommends to the DLIR-DCD Administrator whether the request should be granted or not.
 - How is the determination made whether the request is approved or denied; and
 - The WC Hearings Supervisor reviews the request and determines if the request meets the minimum standards of the applicable section of the statute or the administrative rule, and the recommends to the DLIR-DCD Administrator whether the request should be granted or not.
 - Who makes the approval/denial determination.
 - The Administrator determines whether the IME or IPE is granted or not.

[§392-79] Reconsideration. (a) At any time within one year from the date of a final decision with respect to wages upon which benefits are computed, the director on the director's own motion may reopen the decision if the director finds that wages of the claimant pertinent to the decision but not considered in connection therewith have been newly discovered or that benefits have been allowed or denied or the amount of benefits have been fixed on the basis of a nondisclosure or misrepresentation of a material fact.

(b) At any time within two years from the end of any week with respect to which a final decision allowing or denying benefits has been made, the director on the director's own motion may reopen the decision if the director finds that the benefits were allowed or denied as a result of nondisclosure or misrepresentation of a material fact.

(c) At any time within one year from the end of any week with respect to which a final decision allowing or denying benefits has been made, the director on the director's own motion may reopen the decision if the director finds that an overpayment, due to reasons other than fraud, has occurred.

(d) In any case in which the director is authorized by this section to reopen any final decision rendered by a referee or court, the director may petition the referee or court to issue a revised decision. [L 1969, c 148, pt of §1; gen ch 1985]

Rules of Court

Applicability of Hawaii Rules of Civil Procedure, see HRCF rule 81(b) (12).

[Previous](#)

[Vol107_Ch0346-0398](#)

[Next](#)

§12-10-74 Consolidation of claims and joinder of parties. (a) The director may order the joinder of additional parties, except as provided in section 12-10-33, necessary for the full adjudication of a claim. Motions to join additional parties shall be made prior to the filing of a request of hearing. Upon showing good cause, the director may permit joinder of additional parties beyond the request of hearing date.

(b) The director may order the consolidation of claims necessary for the full adjudication of the injured employee's rights and each employer's liability for compensation. Motions to consolidate several claims shall be made prior to the filing of a request of hearing. Upon showing good cause, the director may permit consolidation of claims beyond the request of hearing date. [Eff: 11/29/85] (Auth: HRS §386-72) (Imp: HRS §386-86)

§12-10-75 Medical examination orders and reports. (a) Orders requiring the injured employee to appear for examination by the physician of the employer's choosing may be issued by the director.

(b) The employer shall submit a request in writing to the director and the injured employee twenty calendar days before the scheduled medical examination date. The request shall also include the purpose of the examination, justification for the order, the name of the physician, and time, date, and place of examination.

(c) The director, upon review of the case file and without necessity of hearing, and upon finding that the examination will assist in the expedient disposition of the case or in determining the need for or sufficiency of medical care or rehabilitation, shall issue a medical examination order. The order shall not be appealable and will inform the claimant that compensation may be suspended for failure to submit to the examination without good cause. The injured employee may be responsible for a reasonable no-show fee not to exceed \$250 charged by the physician.

(d) Reports for a medical examination by a physician chosen by the employer or employee not requiring a director's order shall be provided to all parties within fifteen calendar days after receipt and no later than fifteen calendar days prior to the scheduled date of hearing, whichever is sooner. Failure to provide the required copies may result

in the director denying inclusion of the report in the director's decision. [Eff: 11/29/85; am 12/8/94] (Auth: HRS §386-72) (Imp: HRS §§386-79, 386-95)

§12-10-76 Liability for expenses incurred by injured employee required to submit to a medical examination. (a) Whenever an injured employee is ordered or requested to be present for examination by a physician or surgeon selected by the employer, as provided under section 386-79, HRS, the employer shall pay the reasonable costs and expenses incurred for travel, transportation, room and board, and actual wages lost by the injured employee. An employee who is receiving temporary total disability benefits shall not be entitled to wage loss.

(b) Whenever an injured employee is ordered or requested to be present for an examination by a physician or surgeon selected by the director, as provided under section 386-80, HRS, the costs, expenses, and wages as specified in subsection (a) shall be paid to the injured employee from the funds appropriated by the legislature for the use of the department. [Eff: 11/29/85] (Auth: HRS §386-72) (Imp: HRS §§386-79, 386-80)

Historical Note

§12-10-76 is based substantially upon §12-13-5. [Eff: 8/13/71; am ren §12-13-5 1/1/81] (Auth: HRS §386-72) (Imp: HRS §§386-72, 386-79, 386-80)

§12-10-77 Filing of complaint. (a) Whenever a person has allegedly violated section 386-98, HRS, a written complaint, identifying the person charged and indicating the date and nature of the violation with related documentation, shall be filed with the director, provided that it is submitted within two years of the date of the alleged violation.

(b) The director shall send a copy of the complaint to the person against whom the complaint was filed and the person shall have thirty calendar days after the date the director sent the complaint by which to respond.

(c) The director or a duly appointed representative shall investigate the statements of the complainant and the person against whom the complaint has been

§12-15-50 Emergency treatment. (a) In emergency cases, an unqualified health care provider shall be duly compensated under the provisions of section 386-21, HRS, and any related rules, for services rendered to an injured employee.

(b) The unqualified health care provider shall, at the earliest reasonable and practicable time, transfer care of the injured employee to a duly qualified physician. Treatment provided by an unqualified health care provider subsequent to such time as deemed reasonable and practicable shall not be reimbursed. [Eff 1/1/96, am 2/28/11] (Auth: HRS §§386-26, 386-72) (Imp: HRS §§386-21, 386-26, 386-27)]

§12-15-51 Surgery. (a) When elective surgery is contemplated, the attending physician shall obtain permission from the employer at least seven calendar days prior to the date of the proposed surgery. Written notification shall include procedure code, medical documentation justifying the need for surgery, the estimated date of surgery, and the hospital where the surgery is to be performed. The notification shall permit the employer to determine whether the injured employee should be examined by a physician of the employer's choice as provided under section 386-79, HRS. Any physician who performs surgery in a manner which denies the rights of the employer as provided under section 386-79, HRS, shall forfeit the physician's right to fees. When the surgical procedure has a "BR" (by report) fee, the estimated fee shall be submitted with the request. The physician's request shall also specify the cost and need for a co-surgeon or assistant and other additional surgical procedures, if any.

(b) Whenever a request for elective surgery is received, the employer shall respond within seven calendar days after postmark of such request, giving authorization or stating in writing the reason for refusal, to the attending physician, the injured employee, and the director. The employer's denial of elective surgery shall be supported by health care recommendations and shall explicitly state that failure to request a review by the director of the employer's denial within fourteen calendar days after postmark of the employer's denial shall be construed as acceptance of the employer's denial. If a request for a surgical procedure has been denied, the attending physician may not resubmit the same request for the same surgical procedure for forty-five calendar days after postmark of the employer's denial. Failure by the employer to respond within seven calendar days shall constitute approval of the request.

(c) The attending physician or the injured employee may request in writing that the director review the

employer's denial of the request for elective surgery. The request for review shall be filed with the director, copying the employer, within fourteen calendar days after postmark of the employer's denial. Failure to file a request for review of the employer's denial to the director within fourteen calendar days after postmark of the employer's denial shall be deemed acceptance of the employer's denial, and the attending physician may not resubmit the same request for the same surgical procedure for forty-five calendar days after postmark of the employer's denial. The director shall hold a hearing on the request for review, and issue a decision approving or denying the request for elective surgery based on the evidence presented (inclusive of records on file). The decision shall be final unless appealed pursuant to section 386-87, HRS. The appeal shall not stay the director's decision.

(d) Surgery which must be performed immediately or within fourteen calendar days because the condition is life-threatening or could cause serious harm is not considered elective surgery. The attending physician shall notify the director and the employer as soon as possible when emergency surgery is required.

(e) When a surgical fee is chargeable, no office or hospital visit charge shall be allowed for the day on which this surgical fee is earned, except if surgery is performed on the same day as the physician's first examination.

(f) Listed fees for all surgical procedures include the surgery and the follow-up care for the period indicated in days in the column headed "Follow-up Days" in the medical fee schedule. Necessary follow-up care beyond this listed period is to be added on a fee-for-service basis. Where the follow-up period is listed as zero, the listed fee is for the surgical procedure only, and all post-operative care is to be added on a fee-for-service basis.

(g) When additional surgical procedures are carried out within the listed period of follow-up care for a previous surgery, the follow-up periods shall continue concurrently to their normal terminations.

(h) Certain of the listed procedures in the medical fee schedule as provided in section 12-15-90 are commonly carried out as an integral part of a total service and, as such, do not warrant a separate charge. When such a procedure is carried out as a separate procedure, not immediately related to other services, the indicated fee is applicable.

(i) When significant time or complexity to patient care results from multiple or bilateral surgical procedures performed at the same operative session, the total fee shall

be the fee for the major procedure plus fifty per cent of the fee of the lesser procedures unless otherwise specified in this chapter. When an incidental procedure (e.g., incidental appendectomy, lysis of adhesions, excision of previous scar) is performed through the same incision, the fee shall be that of the major procedure only.

(j) One attending physician shall be in charge of the care of the injured employee. However, if the nature of the injury requires the concurrent services of two or more specialists for treatment, then each physician shall be entitled to the listed fee for services rendered.

(k) Lacerations ordinarily require no aftercare except removal of sutures. The removal is considered a routine part of an office or hospital visit.

(l) For those fees not covered by Medicare, bills for services for injured employees who have had major surgery or treatment for major fractures and are later treated by another physician for follow-up care shall be limited to the fee schedule during the entire follow-up period as follows:

- (1) The operating surgeon shall submit a fee, reducing it accordingly if aftercare is not rendered.
- (2) The physician providing follow-up care shall submit the fee for the aftercare.
- (3) It shall be the responsibility of the operating surgeon to advise the director or employer of the apportionment of the respective fees. [Eff 1/1/96; am 1/1/97; am 12/17/01] (Auth: HRS §§386-26, 386-72) (Imp: HRS §§386-21, 386-26, 386-79)

§12-15-52 Anesthesia services. (a) A base unit is listed for all procedures in the medical fee schedule in accordance with section 12-15-90. This includes the base unit of all anesthesia services except the value of the actual time spent administering the anesthesia or in unusual detention with the patient.

(b) As allowed under Medicare, the anesthesia charges are equal to the sum of the base and time units for the service multiplied by a geographically adjusted anesthesia-specific conversion factor.

(c) The total value for anesthesia services includes pre- and post-operative visits, the administration of the anesthetic, and the administration of fluids or blood incident, or both, to the anesthesia or surgery.

(d) The time units are computed by dividing the total anesthesia time by fifteen minutes.

(e) Calculated values for anesthesia services shall be used when the anesthesia is administered by a licensed