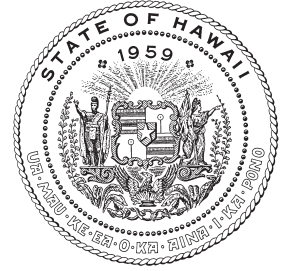


# Americans with Disabilities Act - Title I Employee Health Plans



## Covered Entities

Title I of the Americans with Disabilities Act of 1990 (P.L. 101-336) applies to **covered entities**. Covered entities are private employers, state and local governments, employment agencies, labor unions, and joint labor management committees with 15 or more employees.

## Guidelines for Employee Health Plans



Title I permits disability-based distinctions in employer health plans as long as covered entities do not use them as subterfuges (ploys or deceptions) to evade Title I requirements.

A covered entity cannot make decisions based on concerns about the impact of an individual's disability or his/her dependent's disability on the covered entity's health plan.

A covered entity must provide employees with disabilities equal access to the health benefits it provides to employees without disabilities.

## Disability-based Distinctions

A disability-based distinction singles out a particular disability, a discrete group of disabilities, disability in general, or a single procedure or treatment of a particular disability or discrete group of disabilities. Examples of illegal, disability-based distinctions include the following:

- Coverage limits on the treatment of any pre-existing blood disorders, if the plan does not exclude other pre-existing conditions; and
- Exclusion of a drug used only to treat AIDS.

Examples of permissible, non-disability-based distinctions include the following:

- Different levels of coverage for physical conditions and mental/nervous conditions;
- Different levels of coverage for vision care and medical care;
- Pre-existing condition clauses;



- Coverage limits on medical procedures that are not exclusively, or nearly exclusively used in treating a particular disability (e.g., limits on the number of x-rays the plan will pay for); and
- Lifetime or annual caps on plan benefits.

## Permissible Disability-based Distinctions

Title I permits health plans to make a disability-based distinction as long as it is not a subterfuge. A distinction is not a subterfuge when it is justified by the risks or costs associated with the disability. Determining whether a disability-based distinction is permissible is a case-by-case process. Examples of permissible disability-based distinctions include the following:



- A cap on a particular catastrophic disability if the health plan treats all similarly catastrophic conditions the same way;
- A disability-based distinction based on legitimate actuarial data or actual or reasonably anticipated experience, and that the health plan treats conditions with comparable actuarial data and/or experience in the same fashion;
- A disability-based distinction for the treatment of a discrete group of disabilities would have been so expensive as to cause the plan to become insolvent;
- A disability-based distinction to prevent a drastic alteration in the scope of coverage or level of benefits provided to all employees; and
- Exclusion of a particular treatment because it can prove that the treatment does not have any medical value.

## ADA Information

Visit the EEOC web site to see the Title I regulations and related guidance at [eoc.gov](http://eoc.gov).



### **DISABILITY AND COMMUNICATION ACCESS BOARD**

919 Ala Moana Blvd., Room 101 • Honolulu, HI 96814  
 Oahu: (808) 586-8121 (Voice/TTY), (808) 586-8129 (Fax)

#### **Call toll free from:**

**Maui:** 984-2400, ext. 6-8121# (Voice)

**Kauai:** 274-3141, ext. 6-8121# (Voice)

**Molokai & Lanai:** 1(800) 468-4644,  
 ext. 6-8121# (Voice)

**Big Island:** 974-4000,  
 ext. 6-8121# (Voice)

**E-mail:** [dcab@doh.hawaii.gov](mailto:dcab@doh.hawaii.gov) • **Web Site:** [www.hawaii.gov/health/dcab/](http://www.hawaii.gov/health/dcab/)

