



HO-CHUNK NATION CODE (HCC)
TITLE 1 – ESTABLISHMENT ACTS
SECTION 13 – HO-CHUNK INSURANCE REVIEW COMMISSION
ESTABLISHMENT AND ORGANIZATION ACT

CITE AS: 1 HCC § 13

ENACTED BY LEGISLATURE: JULY 20, 2005

This Act supersedes the Ho-Chunk Insurance Review Commission Ordinance enacted 04/21/95 and amended 02/18/97 and 12/14/99 by Legislative Resolution 12/14/99A.

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1. Authority.

a. Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all government personnel.

c. The Legislature established the Ho-Chunk Insurance Review Commission on April 21, 1997.

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d. The Employment Relations Act (6 HCC § 5) provides for Tribal employee health and worker's compensation benefits and provides for an appeal process by an Insurance Review Commission to review benefit denials.

2. **Purpose.** This Act establishes and organizes the Ho-Chunk Nation Insurance Review Commission (Commission).

3. **Mission.** The Insurance Review Commission shall hear appeals on Ho-Chunk Nation's employee benefit insurance plan(s) decisions relating to employment.

4. **Powers.** The Commission shall have the power to review and render a final decision on all insurance claims. Such decisions shall be available for the benefit of employees who have been denied benefits under Ho-Chunk Nation insurance plans. The Insurance Review Commission decisions shall be final subject to review by the Ho-Chunk Nation Trial Court. A party seeking review of a final decision by the Ho-Chunk Nation Trial Court must file a request with the Court within thirty (30) days of the issuance of the final decision.

5. **Scope.** The Commission shall hear appeals for the following insurance plans.

a. Worker's Compensation Plan.

b. Health insurance, to include dental, eye care, and prescription drugs.

6. **Insurance Review Commission.**

a. Membership.

(1) The Commission shall be composed of four (4) Commissioners who are appointed by the Ho-Chunk Nation Legislature.

(2) The tenure of the Commission shall be at the pleasure of the Ho-Chunk Nation Legislature.

b. Presiding Commissioner. The Commission shall select one (1) of the four (4) Commissioners to preside over such hearings and to render the decision and the opinion of the Commission. Such Commissioner shall be considered the Presiding Commissioner. The Presiding Commissioner shall make all evidentiary rulings.

c. Removal.

(1) The Ho-Chunk Nation Legislature, at the recommendation of the Commission, may remove a Commissioner for malfeasance, dereliction, or neglect of duty, by a two-thirds (2/3) majority vote at a regular meeting, provided that the member of the

Commission subject to removal is informed of the charges and given an opportunity to respond.

(2) Grounds for removal of a member of the Commission shall include, but are not limited to, the following:

(a) Conviction of any felony in tribal, county, state or federal court.

(b) Willful and persistent misconduct reflecting on the dignity and integrity of the Commission.

(c) Failure to comply with the Ho-Chunk Constitution, the *Code of Ethics Act* (2 HCC § 1) and other applicable laws.

(d) Unexcused absence from three (3) regular or special meetings of the Commission.

(e) Misappropriation of funds.

d. Compensation and Funding.

(1) Commissioners shall be compensated for their service and reimbursed for any reasonable and documented actual expenses, such as mileage, incurred in connection with the performance of their duties and responsibilities, as determined by the Commission, in accordance with the policies of the Ho-Chunk Nation's Finance Manual (Section 27).

(2) The compensation of the Commissioners, personnel and administrative costs shall come from the Legislature through the Ho-Chunk Department of Personnel.

7. Authority and Procedures.

a. The Commission shall have the authority to require corrective action deemed necessary for the Nation to be in compliance with the requirement of the *Employment Relations Act* (6 HCC § 5) and the appropriate Nations health benefit plans.

b. The Commission shall determine the powers and responsibilities of the personnel needed to carry out the purpose of the Commission.

c. The Commission shall establish and implement consistent equitable procedures for the Commission to follow in hearing insurance plan appeals.

d. The Commission shall provide notice to Tribal employees. Such notification shall be deemed accomplished with the enactment of this Act and its publication on the Legislature's internet website.

e. Recusal of Commissioners.

(1) The Commission shall determine whether a conflict of interest exists between a member of the Commission and a participant in a matter pending before the Commission. Such determination shall be made according to the relevant Ho-Chunk Nation law.

(2) If the Commission determines that one of its members has a conflict of interest, that member shall be disqualified from participating in the matter pending before the Commission.

f. The Commission shall accept written Appeals from Tribal employees who follow the procedures of the Commission herein listed. An Appeal shall be considered only when the following occur:

(1) Exhaustion of all administrative reconsideration.

(2) All Commission forms are filed, which shall include the following:

- (a) Complete name and current address of the employee.
- (b) Identification of the insurance plan.
- (c) Date of injury or illness.
- (d) Nature of injury or illness.
- (e) Place of employment.
- (f) List of witnesses.
- (g) Summation of appealable issue.

(3) The claimant must sign the petition.

(4) The request must be filed with the Department of Personnel or its agent.

(5) All of the above must be completed within ninety (90) days of the receipt of the appeal.

(6) After the receipt of a timely petition, the Department of Personnel or its agent shall mail a copy of the petition to the Presiding Commissioner.

(7) Within ninety (90) days of filing such a petition, the Department of Personnel or its agent shall mail, by certified mail, notification to the claimant of the time, date, and location of the Insurance Appeal Hearing. Failure to appear shall result in a denial of the claim.

8. Hearings.

a. Commission Hearings are not subject to the Nation's *Open Meetings Act* (2 HCC § 2).

b. Quorum. Three (3) appointed Commissioners must be present to constitute a quorum for all Hearings.

9. Commission Decisions.

a. In its review of insurance plan decisions, the Commission shall review the entire record and take into consideration the findings and conclusions of the Insurance Plan determinations.

b. The Commission may issue an oral decision at the hearing, but shall confirm the oral decision with a written decision. The written decision shall be issued within ten (10) days and shall contain the reason(s) behind the Commission decision. All interested parties shall be notified of the Commission decision within ten (10) days of the written decision.

10. Annual Report to the Nation. The Commission shall submit an Annual Report to the Legislature no later than sixty (60) days following the end of each fiscal year. The report shall contain the number of appeals heard by the Commission for each type of insurance plan, the number of denials of appeals, reason(s), and the total amount of monetary reimbursement and/or damages awarded.

11. Severability. If any of the provisions or application of any provision of this Act shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provision(s) shall be severed and the remaining provisions shall continue in full force and effect.

12. Savings Clause. All enactments of the Ho-Chunk Nation adopted before the effective date of this Act shall remain in full force and effect to the extent that they are consistent with this Act.

Legislative History:

04.20.95 Approved by the Committee on Finance.
04.21.95 Adopted by full Legislature.
02.12.97 Amendments relating to paragraphs 1.14.2, 1.14.3, and 1.14.4 approved by the Committee on Health and Social Services.
02.18.97 Amendments adopted by full Legislature.
12.14.99 Revised paragraph 1.14.4 approved by Legislative Resolution 12/14/99A.
11.24.04 Proposed Bill Ho-Chunk Insurance Review Commission Establishment and Organization Act submitted to the Office of the President for Executive Review.
05.17.05 Legislature places Draft Ho-Chunk Insurance Review Commission Establishment and Organization Act out for 45 Day Public Review.
07.08.05 Public Review period ends without comment.
07.20.05 Enacted by Legislative Resolution 7/20/05H.
02.07.17 Legislature adopts Resolution 02.07.17W placing all Establishment and Organization Acts out for Forty-Five Day Public Comment.