

[INSURANCE COMMISSION, September 08, 2010]

INSURANCE GUIDELINES ON RULE XVI OF THE OMNIBUS RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT 8042 (THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995), AS AMENDED BY REPUBLIC ACT 10022 RELATIVE TO COMPULSORY INSURANCE COVERAGE FOR AGENCY-HIRED OVERSEAS FILIPINO WORKERS

AUTHORITY

Pursuant to the authority vested by law in the Insurance Commission (IC), the Department of Labor and Employment (DOLE), the Philippine Overseas Employment Administration (POEA) and the National Labor Relations Commission (NLRC) and in compliance with Section 15, Rule XVI of the Omnibus Rules and Regulations Implementing Republic Act 8042 as amended by Republic Act 10022, the following Insurance Guidelines which should be read with reference to the Omnibus Rules are hereby promulgated.

GUIDELINE I GENERAL PROVISIONS

Section 1. Policy Statement and General Principles

(a) It is the policy of the State to afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all and to provide adequate and timely social, economic and legal services to Filipino migrant workers.

(b) It is the policy of the State to provide adequate protection to the overseas Filipino workers (OFWs) by ensuring coverage under the compulsory insurance requirement in Section 37-A of the Migrant Workers and Overseas Filipinos Act of 1995, as amended. This mandatory insurance coverage of OFWs is exceptionally different and distinct from the ordinary and usual insurance contracts provided by insurance providers in the Philippines.

(c) It is the policy of the State to ensure the due execution and performance of insurance contracts not only for the sound development of the national economy and business enterprises but also for the protection of the interests and welfare of the OFWs and their families. This is because insurance is imbued with public interest.

Section 2. Rules on Interpretation. The terms and conditions of the policy issued in favor of the OFWs in compliance with the Migrant Workers and Overseas Filipinos Act of 1995, as amended, are liberally construed in favor of the insured. All

ambiguities in an insurance contract are construed against the insurer and are resolved in favor of coverage.

Section 3. Migrant Workers Covered. Each migrant worker to be deployed by a recruitment/manning agency shall be covered by a compulsory insurance contract which shall be secured at no cost to the said worker.

Seafarers already covered by entities providing indemnity cover to the vessel pursuant to Section 5, Rule XVI of the Omnibus Rules shall be governed by pertinent POEA Rules and Regulations and the POEA-Standard Employment Contract for Seafarers. These Guidelines shall apply to principals/shipowners which obtained insurance cover from local insurance companies.

GUIDELINE II DEFINITION OF TERMS

Whenever used in these Insurance Guidelines, the following terms shall have their respective meanings hereinafter defined:

(a) Act – the “Migrant Workers and Overseas Filipinos Act of 1995” or Republic Act 8042 as amended by Republic Acts 9422 and 10022.

(b) Certificate of Authority (CA) – the license issued by the IC to an insurance company authorized to transact insurance business.

(c) Composite insurance company – an insurance company duly authorized by the IC to issue both life and non-life insurance policies.

(d) Insurance Contract - an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event.

(e) Insurer or Insurance Provider - one that makes, proposes or provides an insurance contract.

(f) Life insurance company – an insurance company authorized to issue life insurance policies.

(g) Migrant Workers’ Compulsory Insurance Coverage – the compulsory insurance policy bought by the recruitment/manning agency from a reputable insurance company duly authorized by the Insurance Commission in favor of a migrant worker with the minimum coverage enumerated under Section 37-A of the Act;

(h) Non-life insurance company – an insurance company authorized to issue non-life insurance policies.

(i) Omnibus Rules – the Implementing Rules and Regulations (IRR) of the Act.

All other terms not defined in these Insurance Guidelines shall have their respective meanings defined in the Omnibus Rules. Hence, these Insurance Guidelines must be read with reference to the Definition of Terms under the Omnibus Rules.

GUIDELINE III QUALIFICATIONS OF PARTICIPATING INSURERS

Section 1. General Qualifications. Only reputable private life, non-life and composite insurance companies duly licensed by IC which are in existence and operational for at least five (5) years, with a net worth of at least Five Hundred Million Pesos (Php500,000,000.00) based on the audited financial statements for the immediately preceding year, with a current year certificate of authority, and with an IC-approved standard policy, shall be qualified to provide for the Migrant Workers' Compulsory Insurance Coverage.

Section 2. Disqualification. Insurance companies who have directors, partners, officers, employees, or agents with relatives within the fourth civil degree of consanguinity or affinity who work or have interest in any of the licensed recruitment/manning agencies or in any of the government agencies involved in the overseas employment program shall be disqualified from providing the migrant worker's insurance coverage. It shall be the duty of the said directors, partners, officers, employees or agents to disclose any such interest to the IC and POEA.

Section 3. Scope of Writing Authority. The following shall be written only by life insurance companies:

- a) Natural death insurance with a supplementary accidental death and permanent total disablement benefits.

The following shall be written only by non-life insurance companies:

- a) Permanent total disablement insurance;
- b) Repatriation cost insurance;
- c) Subsistence allowance insurance;
- d) Money claims insurance;
- e) Compassionate visit insurance;
- f) Medical evacuation insurance; and
- g) Medical repatriation insurance.

Accidental death insurance may be written by both life and non-life companies.

Composite insurance companies may write all of the above insurance coverages.

Section 4. Specific Qualifications

A. Computer and Other Services. The insurance provider must possess the capability of a fully computerized operation on an on-line, real-time basis of its transactions. For this purpose, the IC must be equipped with a computerized monitoring link of all the insurance provider's transactions including complaints, payment of benefits, and remittance of taxes due the government.

B. Representative Office Requirements. The insurance provider must have branches near the vicinity where the POEA offices are located all over the country.

C. Accessible Hotlines/Assistance Centers. The insurance providers must have an established 24-hour call/assistance centers to provide immediate assistance and entertain complaints and inquiries from migrant workers and/or their beneficiaries, recruitment/ manning agencies, and other stakeholders. These providers must have an established agreement with international assistance providers that have access in all the countries where the migrant workers are located.

Further, these insurance companies must have their own company representatives stationed in host countries to provide in-country assistance for claims servicing of the migrant workers relative to their insurance coverage, in the following cases:

- (1) In countries where the migrant workers insured under the program numbering at least twenty thousand (20,000) are located. Such representatives shall be stationed near the vicinity where POLO offices, if any, are located;
- (2) In countries with more than one POLO, there shall be as many representatives as there are POLOs provided that the number of migrant workers insured under the program reaches at least forty thousand (40,000) in the host country; and
- (3) In circumstances other than the preceding subparagraphs (1) and (2), where the presence of a company representative is necessary as determined by the Inter-Agency Committee created under these Guidelines.

GUIDELINE IV ACCREDITATION OF INSURERS

Section 1. General Requirements. The IC shall furnish the POEA a list of insurance providers qualified to provide the mandatory insurance coverage. Said list must be updated every time an inclusion or disqualification is made by the IC.

Each qualified insurance provider shall be issued a certification that it is authorized to issue the compulsory insurance. The Certification shall be displayed prominently in the main and representative offices of the insurance provider.

The POEA shall not issue an Overseas Employment Certificate (OEC) or any equivalent clearance to the OFW if the insurance contract bears the name of an insurance company not included in the list of qualified insurance providers furnished by the IC.

Section 2. Exclusive Option. The recruitment/manning agency shall have the right to choose from any of the qualified insurance providers that will insure the migrant worker it will deploy.

No government agency shall direct, dictate, interfere or influence, in any way, any recruitment/manning agency in choosing or selecting from any accredited insurance company for the mandatory insurance coverage of its OFWs. A violation of this provision by any government official or employee shall be subject to proper administrative penalties under the Code of Ethical Standards for Government Employees, the Anti-Graft and Corruption Law and other relevant laws.

Section 3. Joint Assessment by DOLE and IC. At the end of every year, the DOLE and the IC shall jointly make an assessment of the performance of all insurance providers, based upon the report of NLRC and POEA on their respective interactions and experiences with insurance companies, and they shall have the authority to ban or blacklist such insurance companies which are known to be evasive or not responsive to the legitimate claims of migrant workers. The DOLE shall include such assessment in its year-end report to Congress.

Based on the joint DOLE and IC assessment, the IC shall have the authority to ban, blacklist, disqualify or revoke the accreditation of the insurance provider.

The IC shall have the duty to see that all laws relating to insurance, insurance companies and other insurance matters are faithfully executed and to perform the duties imposed upon it by the Guidelines. It may issue such rulings, instructions, circulars, orders and decisions as it may deem necessary to secure the enforcement of the provisions of these Guidelines. Moreover, IC is hereby authorized, at its discretion, to impose upon insurance companies, their directors and/or officers and/or agents, for any willful failure or refusal to comply with, or violation of any provision of these Guidelines, or any order, instruction, regulation, or ruling of the IC, or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the IC, the following:

- (a) fines; and
- (b) suspension, or after due hearing, removal of directors and/or officers and/or agents.

GUIDELINE V POLICY FORMS

Section 1. Approval of Policy Forms. In accordance with Section 226 of the Insurance Code, no policy, certificate or contract of insurance, application form, rider, clause, warranty or endorsement to be used under the Act shall be issued without the approval of the IC. The use of an unauthorized policy format shall result in the disqualification of the participating insurance provider.

For control purposes, every policy, whether individual or master policy and certificate of cover, must have a special serial number.

Section 2. Application Form and Title of the Policy. There shall be an application form which shall form part of the insurance policy.

The policy shall be uniformly labeled as "COMPULSORY INSURANCE COVERAGE FOR AGENCY-HIRED MIGRANT WORKERS".

Insurers shall be uniformly called "insurance providers". The migrant worker insured under the program shall be uniformly called "insured migrant worker". All other relevant terms used in the policy must be sufficiently defined in the policy in understandable language and avoiding, as much as possible, the use of technical terms.

The policy should mention that in enforcing the migrant worker's rights, reference may be made to Section 23 of RA 10022, Rule XVI of its Omnibus Rules, and these Insurance Guidelines.

Sec 3. Policy Duration, Coverage and Benefits. Such insurance policy shall be effective for the duration of the migrant worker's employment contract, and shall cover, at the minimum the benefits mentioned in Guideline VII of these Insurance Guidelines. In case of group insurance, a Proof of Cover, which shall also be pre-approved by the IC, shall be issued to the individual insured migrant worker. The policy shall state that the monetary benefits shall be directly payable to the insured migrant workers or their beneficiaries, as the case may be.