



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

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The Department of Human Services Implements Emergency Rules for Health Standards

In the wake of a severe nationwide shortage of Tubersol® and Aplisol®, the purified protein derivative solutions (PPD) used in tuberculosis skin test examinations, effective May 20, 2013 the Department of Human Services (DHS) is implementing Emergency Rules Relating to Evidence of Health Standards for child care facilities licensed or registered by the Department.

The necessary legal standard to make rules without following the normal provisions of Chapter 91, Hawaii Revised Statutes (HRS), is that an agency finds there is imminent peril to the public health, safety, or morals, or to livestock or poultry health, or to natural resources. Pursuant to the authority of Section 91-3(b) HRS, the DHS has determined there is a public health concern caused by the PPD shortage.

Due to the Tubersol® and Aplisol® shortages, on April 11, 2013 the Department of Health (DOH) temporarily suspended mandated tuberculosis (TB) clearance requirements for school personnel, students, food handlers, and workers in health care, domiciliary care, daycare, and residential care facilities. Otherwise, the DOH would have exhausted the remaining PPD supply and been unable to screen and treat individuals most likely to have contagious tuberculosis. The temporary DOH suspension covered all State Departments. However, the DHS has rules pertaining to child care facilities that are not covered under the DOH's Chapter 11-164 administrative rules.

“Under existing DHS administrative rules, individuals unable to obtain tuberculosis skin tests cannot attend or be employed at DHS licensed or registered child care facilities” says DHS Director Patricia McManaman. “Existing rules for licensed or registered child care facilities require evidence of health standards, including tuberculosis skin tests for children enrolled and adults employed, volunteering, substituting or living at licensed child care facilities prior to starting child care. Therefore, the PPD shortage requires the adoption of these emergency DHS rules.”

The DHS Emergency Rules require children and adults to be screened by a health care practitioner who will assess whether the individual falls into any of the five highest-risk categories that require a tuberculosis skin test. Those categories include individuals who:

- have had contact with another individual with infectious TB;
- have symptoms suggestive of TB disease;
- are newly arriving immigrants referred automatically through the federal immigration system Honolulu Quarantine Station;

- are infected with HIV; or
- are immune-compromised due to disease or medical treatment

TB clearance requirements for children and adults whose health care practitioners determine them to be risk free, will be deferred until the DOH has reinstated TB skin testing for everyone.

The DHS Emergency Rules took effect May 20, 2013. Section 91-3, HRS, limits the duration of Emergency Rules to 120 days. If it appears that Hawaii's PPD supply is still limited as we approach the end of the 120-day period, the DHS will work with the DOH to coordinate permanent amendments. Public notice will be issued when the Emergency Rules are lifted.

MEDIA CONTACTS: Kayla Rosenfeld, Communications Specialist & Public Information Officer
586-4892; krosenfeld@dhs.hawaii.gov ; <http://humanservices.hawaii.gov>