
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 Part I

2 SECTION 1. Hawaii's health care system consists of a
3 myriad of services that must be coordinated and integrated to
4 ensure access to quality care at the appropriate level for all
5 of Hawaii's residents. A single user of health care often
6 accesses different providers that deliver different products and
7 services, and may transition from one level of care to another
8 over a period of time.

9 Acute care hospitals deliver care to the most seriously ill
10 patients. As such, the cost of hospital care is very high due
11 to high staffing costs, the high costs of technology that
12 permeates hospitals in the form of equipment and supplies, the
13 high costs of medication, and regulatory and quality
14 requirements.

15 Patients who receive care at hospitals and recover enough
16 of their health so that they no longer require hospitalization,
17 but are still in need of services, should be transferred out of
18 the hospital to a provider that can appropriately and safely



1 care for their needs. Such a transfer supports an improved
2 quality of life for the patient and sustains the integrity of
3 the acute care system by creating availability of bed-space for
4 others who may require hospitalization. This balanced flow of
5 patient movement matches the appropriate provider to the needs
6 of the patient. In doing so, it better manages the financing of
7 health care.

8 The determination about an appropriate level of care is
9 based on the patient's condition and input from a multi-
10 disciplinary care team. The provision of long-term care, either
11 in a facility or in a home- and community-based setting, is far
12 less costly than hospital care.

13 Unfortunately, due to unique and unusual circumstances,
14 Hawaii has a shortage of beds in nursing facilities relative to
15 its population. Most of Hawaii's long-term care facilities,
16 which includes skilled nursing facilities, assisted living
17 facilities, adult residential care homes, and foster family
18 homes, are full nearly all the time. Placement in long-term
19 care is especially difficult when a patient has a medically
20 complex condition that demands resources which are not available
21 at many long-term care facilities in Hawaii. As a result, many
22 acute care hospital patients who are ready for long-term care



1 cannot be discharged and must wait in the acute care hospital
2 until space becomes available.

3 The shortage of long-term care beds is an undesirable
4 situation from three perspectives:

- 5 (1) The quality of life of the patient is diminished;
- 6 (2) A patient in an acute care hospital who is waitlisted
7 for long-term care occupies a bed that may be needed
8 by someone else with an acute illness or injury; and
- 9 (3) Hospital care is very expensive, so the waitlisted
10 patient contributes to higher costs in an acute care
11 hospital.

12 Hawaii's medicaid program can be modified to facilitate the
13 flow of patients from acute care hospitals to long-term care
14 facilities. When a medicaid-eligible patient is treated by an
15 acute care hospital, medicaid pays a rate for hospital care.
16 The payment is based upon the level of care needed by the
17 patient. When the patient is well enough to be transferred to
18 long-term care, the medicaid payment is reduced to a rate that
19 is 20 per cent to 30 per cent of the actual cost of acute care
20 hospitalization.

21 If the hospital is not able to transfer the patient to
22 long-term care, the hospital must bear the financial burden of



1 reduced medicaid payments. In addition, the inability to
2 transfer a patient who is deemed ready for discharge by a
3 physician means that the waitlisted patient uses an acute care
4 bed that may be needed by other, more acutely ill patients.
5 Thus, there is an opportunity cost to the hospital and the
6 patients.

7 At any particular time, a total of about 200 patients in
8 Hawaii's hospitals may be waiting to be transferred to long-term
9 care. Patients with certain conditions can be on the waitlist
10 for weeks, months, or even years. The total loss to hospitals
11 due to waitlisted patients was estimated to be at least
12 \$80,000,000 in 2006.

13 A significant part of that loss is due to underpayment by
14 medicaid. The underpayment is unfair to acute care hospitals
15 because medicaid is, in effect, a public-private partnership.
16 The public sector provides the funding, and the private sector
17 provides the services. As a result of the underpayment, acute
18 care hospitals and long-term care facilities are weakened
19 financially, and the stability of Hawaii's entire health care
20 system is diminished.

21 In the past, acute care hospitals were able to absorb
22 medicaid losses since payments from commercial and other payers



1 helped to offset the underfunded costs of care for medicaid
2 patients. Over time, the cost of health care has increased at a
3 faster rate than increases in payments from all payers. In
4 addition, significant enhancements in medical technology over
5 the past several years have placed a greater expectation for
6 acute care hospitals to invest in medical equipment and
7 information technology. As a result, acute care hospitals are
8 no longer able to cover the underpaid cost of caring for
9 medicaid patients and adequately invest in medical technology.

10 The result is that many acute care hospitals are on the
11 verge of financial failure. For example, Kahuku hospital would
12 have ceased operations due to bankruptcy if it were not annexed
13 by the Hawaii health systems corporation, which is subsidized by
14 state government. One of the major reasons given for Kahuku
15 hospital's financial troubles was underpayment by medicaid. The
16 Hawaii health systems corporation itself is seeking an emergency
17 appropriation largely because of losses due to underpayment by
18 medicaid. All hospitals in Hawaii face the same problem.

19 Acute care hospitals must be supported financially so that
20 they can continue to care for our acutely ill while longer term
21 solutions to the waitlisted patient problem are being developed.
22 As described more fully in the Waitlist task force report to the



1 2008 Legislature, pursuant to Senate Concurrent Resolution No.
2 198 (2007), this is one piece of the problem. The multi-faceted
3 waitlist problem is being addressed from a number of angles,
4 both legislatively and non legislatively.

5 In addition, medicaid payments for long-term care must be
6 addressed with payments for individuals with medically complex
7 conditions, such as bariatric patients and severely obese
8 patients, needing immediate attention. These payments should be
9 cost-based since the current system of acuity-based
10 reimbursement does not effectively address these types of
11 patients.

12 Furthermore, medicaid managed care (QUEST Expanded) is
13 projected to begin in November 2008. Long-term care providers
14 will need to negotiate rates with managed care plans.
15 Historical patterns in other states where managed care entered
16 the market resulted in long-term care facility closures due to
17 low payments for long-term care. The 2008 medicaid
18 reimbursement rates for long-term care facilities in Hawaii, as
19 set by Act 294, Session Laws of Hawaii 1998, and established by
20 medicaid on January 1, 2008, and as amended herein, should be
21 established as the base rate for all future negotiations with
22 managed care companies. These rates should be the lowest



1 allowable to long-term care providers in future negotiations
2 under QUEST Expanded. This assurance will maintain Hawaii's
3 current level of nursing home providers as well as be an
4 incentive for interested entrepreneurs to expand current
5 operations or consider building additional long-term care beds
6 in Hawaii in response to the demand for post acute care.

7 The purpose of this Act is to provide fair compensation to:

8 (1) Acute care hospitals for the services they provide to
9 medicaid patients who have been treated for acute
10 illnesses and injuries and who have recovered
11 sufficiently so that they should be transferred to
12 long-term care, but for whom long-term care is not
13 available; and

14 (2) Long-term care facilities for services provided to
15 patients with medically complex conditions who prior
16 to admission to the long-term care facility were
17 receiving acute care services in an acute care
18 hospital.

19 This Act also ensures that when Quest Expanded is implemented,
20 long-term care facilities will receive medicaid payments that
21 are at least equal to the rates in effect immediately prior to
22 the implementation of Quest Expanded.



1 SECTION 2. Chapter 346D, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "§346D- Medicaid reimbursement equity; acute-care
5 hospital-based long-term care. Not later than July 1, ,
6 there shall be no distinction between acute-care-based and long-
7 term-care-based reimbursement rates for patients held in an
8 acute care facility due to a lack of bed space in a long-term
9 care facility.

10 §346D- Medicaid reimbursement equity; medically
11 complex conditions. Not later than July 1, , medicaid
12 reimbursements to long-term care facilities for patients with
13 medically complex conditions who, prior to admission to the
14 long-term care facility were receiving acute care services in an
15 acute care hospital, shall be based on actual costs to the long-
16 term care facility. As used in this section "medically complex
17 condition" means a combination of chronic physical conditions,
18 illnesses, or other medically related factors that significantly
19 impact an individual's health and manner of living and cause
20 reliance upon technological, pharmacological, and other
21 therapeutic interventions to sustain life.



1 §346D- Medicaid reimbursement equity; QUEST expanded.
2 Not later than July 1, , reimbursements received by long-
3 term care facilities under QUEST expanded shall be no less than
4 those received under medicaid immediately prior to the
5 implementation of QUEST expanded."

6 SECTION 5. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2008-2009 to
9 increase the acute medical services payment rates and medicaid
10 reimbursements to acute care hospitals for patients who are
11 waitlisted for long-term care.

12 The sum appropriated shall be expended by the department of
13 human services for the purposes of part I of this Act.

14 SECTION 6. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2008-2009 for
17 medicaid reimbursements to long-term care facilities for
18 patients who prior to admission to the long-term care facility,
19 were receiving acute care services in an acute care hospital.

20 The sum appropriated shall be expended by the department of
21 human services for the purposes of part I of this Act.

1 Part II

2 SECTION 7. On average, there are 200, and as many as 275,
3 patients with medically complex conditions waitlisted daily for
4 long-term care in acute care hospital settings across our state.
5 Waitlisted patients are defined as patients who are deemed
6 medically ready for discharge and no longer in need of acute
7 care services but who cannot be discharged and therefore must
8 remain in the higher-cost hospital setting. Discharge
9 timeframes for waitlisted patients range from a few days to over
10 a year. This represents a poor quality of life placement for
11 the patient, presents an often insurmountable dilemma for
12 providers and patients, and creates a serious financial drain on
13 acute care hospitals with ripple effects felt throughout other
14 healthcare service sectors.

15 Regulatory and government mandates create barriers to
16 transferring waitlisted patients. One such barrier is the delay
17 in completing medicaid eligibility determinations for waitlisted
18 patients.

19 Presumptive medicaid eligibility for waitlisted patients
20 should be provided as has been done for pregnant women and
21 children nationwide. Presumptive eligibility means that the
22 department of human services shall make a preliminary or



1 "presumptive determination" to authorize medical assistance in
2 the interval between application and the final medicaid
3 eligibility determination based on the likelihood that the
4 applicant will be eligible.

5 The purpose of this Act is to require the department of
6 human services to provide presumptive eligibility to medicaid or
7 QUEST eligible waitlisted patients.

8 SECTION 8. Chapter 346, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§346- Presumptive eligibility under medicaid or QUEST
12 for waitlisted patients. (a) The department shall presume that
13 a patient who is on the wait list for medicaid or QUEST coverage
14 is eligible for coverage; provided that the applicant is able to
15 show proof of:

16 (1) An annual income at or below the maximum level allowed
17 under federal law or the medicaid Section 1115 waiver
18 approved for Hawaii, as applicable;

19 (2) Confirmation of waitlisted status as certified by a
20 health care provider licensed in Hawaii; and



1 (3) Meeting the level of care requirement for
2 institutional or home and community based long term
3 care as determined by a physician licensed in Hawaii.

4
5 The presumption shall apply immediately upon application.
6 The patient or guardian shall be notified within forty-five days
7 of the application of eligibility for continuing coverage under
8 either medicaid or QUEST.

9 Waitlisted patients who are presumptively covered by
10 medicaid or QUEST shall be deemed eligible for services and
11 shall be processed for coverage under the State's qualifying
12 medicaid or QUEST program.

13 (b) If the waitlisted patient is later determined to be
14 ineligible for medicaid or QUEST after receiving services during
15 the presumptive eligibility period, the department shall
16 discontinue enrollment of the waitlisted patient and notify the
17 provider and the plan, if applicable, of the discontinued
18 enrollment by facsimile transmission or e-mail. The department
19 shall provide reimbursement to the provider or the plan for the
20 charges incurred during the period of presumptive eligibility."

21 SECTION 9. The department of human services shall submit a
22 report no later than twenty days prior to the convening of the



1 2011 regular session of findings and recommendations to the
2 legislature regarding the costs and other issues related to
3 presumptive eligibility.

4 Part III

5 SECTION 10. New statutory material is underscored.

6 SECTION 11. This Act shall take effect on July 1, 2008;
7 provided that part II of this Act shall be repealed on June 30,
8 2011.



Report Title:

Medicaid Reimbursement; Long-term Care

Description:

Ensures equity in reimbursements from Medicaid for patients with various levels of medical conditions determined as in need of a long-term care facility's services. Requires reimbursement rates for QUEST Expanded to remain higher than the level of Medicaid rates at the time of QUEST Expanded taking effect. Requires the Department of Human Services to provide presumptive Medicaid or QUEST coverage to Medicaid eligible waitlisted patients through June 30, 2011. Requires the Department of Human Services to report to the Legislature. (HB2170 HD1)

