

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR
HENRY OLIVA
DEPUTY DIRECTOR

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

February 12, 2009

MEMORANDUM

TO: Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Lillian B. Koller, Director

SUBJECT: **H. B. 1098 - RELATING TO GENERAL ASSISTANCE**

Hearing: Thursday, February 12, 2009, 8:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The proposed amendment is to limit the General Assistance program which is all State-funded, to a period not to exceed 12 months, unless the recipient is actively pursuing a Federal application for Social Security.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this Administration bill. The General Assistance program is meant to provide cash benefits for food, clothing, shelter, and other essentials to individuals, ages 18 through 64, without minor dependents, who are temporarily disabled and who do not qualify for Social Security benefits. Assistance is provided while the temporarily disabled individual recovers sufficiently to return to work or, if permanently disabled, is determined to be qualified as eligible for Federal Social Security benefits.

It is expected that within the 12-month time limit being proposed, the temporarily disabled client will be able to return to work or be qualified for federal Social Security benefits.

The 12-month eligibility shall be extended pending determination of the GA recipient's eligibility for the Federal Supplemental Security Income Program or its successor program.

The GA program caseload has been increasing. This time limit will allow the Department to provide the maximum amount of assistance to more clients while they are in their recovery or transition period and still provide public assistance within the limits of the appropriation authorized by the Legislature each year.

Thank you for the opportunity to provide comments on this bill.

TESTIFYING IN SUPPORT, REQUESTING AMENDMENTS TO
HB1098 - RELATING TO GENERAL ASSISTANCE

February 12, 2009 at 8:00 a.m.

The Legal Aid Society of Hawaii hereby provides testimony in support, but requesting amendments to the House Committee on Human Services on HB1097 – Relating to General Assistance (“GA”).

The Legal Aid Society of Hawaii provides free legal services to the low-income population of the State of Hawaii. We provided civil legal assistance to those in need through nine offices located in Lihue, Waianae, Honolulu, Kaneohe, Kaunakakai, Lanai City, Wailuku, Kona and Hilo. Over the years we have provided leadership around public benefits issues and on an annual basis update our public benefits manual and provide a two-day training on public benefits.

As written, this bill would place a twelve month limit on eligibility for GA. While we understand the basis for DHS’s request for this time limit, we believe that this bill (1) should expand the limit to twenty-four months and keep the annual review; (2) provide stronger protections for disabled recipients; (3) require DHS to consider an applicant for the Aid to Aged Blind and Permanently and Totally Disabled program (“AABD”) after twelve months or upon turning 65; and (4) convert the GA program into an entitlement program to address the issues raised in HB1097.

EXPAND TIME LIMIT AND MAINTAIN ANNUAL REVIEW

Under the current language of the bill, GA recipients would be limited to twelve months on assistance, however months pending a determination for supplemental social security income would not count. As there are sometimes situations out of a recipient’s control and caused by their disability, we believe that a twenty-four month limit provides a better time limit. To this end, we also believe that the reevaluation should be maintained as annually rather than semi-annually.

GOOD CAUSE EXCEPTIONS TO NOT COUNTING MONTHS

GA is for disabled individuals and by its nature these individuals are mentally and physically disabled. While filing for social security and ensuring that they have an application pending should be a relatively easy requirement to meet, the disabilities faced by many of these recipients sometimes make it difficult for them to initially pursue and application or maintain the pursuant of this application. In addition, recent cut backs to mental health community programs now limit the amount of hours available for mental health case workers to assist recipients in making meetings, gathering information and following through with applications.

As such, we are also requesting amendments to this bill which would allow for a good cause exception to the proposed GA time limit.

CONVERSION FROM GA TO AABD

It is our understanding that DHS is proposing this bill in order to ensure that recipients that should be converted from GA to AABD be converted to that program. To this end, we are offering amendments which would require DHS to evaluate a GA recipient at twelve months or upon turning 65 for the AABD program.

AABD-GA PROBLEM

In Hawai'i there are two financial assistance programs for disabled individuals. Simply stated AABD is for those that are permanently disabled, but that don't qualify for Supplemental Social Security Income ("SSI") because of immigration status or other reasons and General Assistance ("GA") is for those who are either temporarily disabled or who may qualify for SSI.

Because the legislature has recognized an on-going need to support those who are permanently and totally disabled persons, AABD was established as an entitlement program. As such, the benefit level for AABD is set at the same rates as the TANF/TAONF programs. However, GA was created as a block grant program which means that benefit amounts are paid out based on the total allocation provided by the legislature.

Recognizing the need to disburse comparable benefits, over the years DHS has maintained the GA payment at the same rate as the AABD program even when the block grant allocated for GA would not support such levels. To do so, DHS would transfer funds from the AABD to the GA program. However, recently they've been advised that they cannot continue this practice as AABD is an entitlement and GA is blocked grant.

To allow for continued transfers and to ensure on-going parity between these two populations, either AABD must be converted to a block grant program or GA must be converted to an entitlement program. We believe that the best solution to this problem is to convert the GA program into an entitlement program. This is already being done operationally and with the added time limits and other precautions concerns about cost are less an issue than they have been previously. As such, we are also proposing amendments to convert the GA program into an entitlement program.

SUGGESTED AMENDMENTS

The proposed amendments that we are suggesting are summarized as follows:

- Replace on page 3, line 14, "twelve" with "twenty-four"
- Add on page, 3, line 14, after "months" "unless good cause exists"
- Maintain on page 6, line 1, "annually" as appears currently in the statute and delete "semi-annually"
- Insert at page 6, line 3, after "department" "provided that after twelve months or upon turning 65, the department refers the person for eligibility under the aged blind and permanently and totally disabled program"
- Move on page 6, lines 6 to 16, beginning with "Good cause..." and insert on page 6, between lines 17 and 18, the following edited section:

"Good cause" shall include, but not be limited to:

- (i) Treatment is unavailable;
- (ii) Personal emergencies;
- (iii) Circumstances that threaten the safety of the patient; and
- (iv) Disability affects the ability of the patient to follow-through with recommendations.

The department shall adopt rules in accordance with chapter 91 to define "good cause," as used above, in order to determine when treatment is unavailable, what constitutes a personal emergency, what circumstances may threaten the safety of a patient, what diagnosed disability affects the ability of the patient to follow-through with recommendations, and other factors that my constitute good cause.

- Add a new Section 2 as follows: Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

a) ~~This subsection does not apply to general assistance to households without minor dependents.~~ The standard of need shall equal the poverty level established by the federal government in 2006, prorated over a twelve-month period based on family size.

The assistance allowance provided shall be based on a percentage of the standard of need. For exempt households and households in which all caretaker relatives are minors, living independently with minor dependents and attending school, the assistance allowance shall be set no higher than sixty-two and one-half per cent and no lower than forty-four per cent of the standard of need. For all other households, the assistance allowance shall be set no higher than sixty-two and one-half per cent of the standard of need and set no lower than thirty-four per cent of the standard of need. The standard of need shall be determined by dividing the 2006 federal poverty level by twelve and rounding down the quotient. The remaining quotient shall be multiplied by the per cent as set by the director by rules pursuant to chapter 91, and the final product shall be rounded down to determine the assistance allowance; provided that:

(1) The department may increase or reduce the assistance allowance as determined in this subsection for non-exempt households for the purpose of providing work incentives or services under part XI;

(2) No reduction shall be allowed that jeopardizes eligibility for or receipt of federal funds;

(3) Reductions in the assistance allowance shall be limited to no more than one per year; and

(4) No non-exempt household, which includes an adult who has received sixty cumulative months of temporary assistance to needy families with minor dependents, shall be eligible for an assistance allowance, unless authorized by federal regulations.

~~[(b) The director shall determine the allowance for general assistance to households without minor dependents based upon the total amount appropriated for general assistance to households without minor dependents, among other relevant factors.]~~

We have also provided a new HD1 which incorporates these proposed changes.

Thank you for the opportunity to testify.

Sincerely,

M. Nalani Fujimori
Interim Executive Director

General Assistance

Description:

Places a twelve-month limit on general assistance to households without minor dependents with appropriate exceptions.

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 1098

A BILL FOR AN ACT

RELATING TO GENERAL ASSISTANCE.

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

SECTION 1. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

"§346-71 General assistance to households without minor dependents. (a) The department of human services is authorized to administer and provide state-funded public assistance to eligible persons who are disabled, who are not otherwise provided for under this chapter, and who are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons:

- (1) Have first been determined ineligible for a comparable federally funded financial assistance program;
- (2) Are bona fide residents of this State; and
- (3) Have furnished to the department a social security account number for each member of the assistance unit or verification that an application was made with the Social Security Administration for a social security account number for each member of the assistance unit.

Persons who meet the categorical criteria for eligibility, but fail to satisfy income and resource criteria adopted by the department shall not be eligible for general assistance to household without minor dependents. The failure of any adult member of the assistance unit to comply with the requirements or conditions of general assistance to households without minor dependents shall exclude the entire assistance unit from receiving financial assistance. However, when the adult member is disqualified for not meeting the work requirement, the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the work requirement occurred. "Assistance unit" as the term is used in this section means persons whose needs, income, and assets are considered in the financial assistance payment and their dependents.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of human services shall consider, but is not limited to considering, the following factors:

- (1) Enrollment and receipt of welfare benefits from another jurisdiction;
 - (2) Physical presence in the State;
 - (3) Maintenance of a place of residence in the State;
 - (4) The availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation;
 - (5) Qualification as to residence for purposes of voting in the State;
 - (6) Change in vehicle operation license;
 - (7) Vehicle registration;
 - (8) Enrollment of children in local schools; and
 - (9) Bank accounts in this State or any other jurisdiction.
- (b) A person between eighteen and sixty-five years of age with a disability shall be eligible for general assistance to households without minor dependents for a period not to exceed twenty four months unless good cause exists if the person:
- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection (e);

- (2) Is unable to meet the disability requirements established by the federal Supplemental Security Income Program or its successor agency; and
- (3) Is unable to engage in any substantial gainful employment because of a determined and certified physical, mental, or combination of physical and mental disability. Upon application, the department shall ask the person whether the person has a physical or mental disability, or both. If the person claims to have both a physical and mental disability, the department shall ask the person to choose whether the person's primary disability is physical or mental. Determination and certification of the disability shall be as follows:
 - (A) A determination and certification of physical disability shall be made by a board of licensed physicians designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;
 - (B) A determination and certification of mental disability shall be made by a board of licensed psychologists or licensed physicians whose specialty is in psychiatry. This board shall be designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;
 - (C) If a determination and certification is made that the applicant does not have a physical, mental, or combination of a physical and mental disability, prior to a denial of any claim, the department shall provide the applicant with an initial denial notice that gives the applicant at least ten calendar days to provide additional medical evidence. The notice shall refer the applicant to free legal services for assistance and permit the applicant to request extensions of time, if necessary;
 - (D) If a determination of physical, mental, or combination of a physical and mental disability is made, the person shall accept and pursue appropriate medical treatment from a provider of the person's choice. The department shall promptly provide the person with a complete and legible copy of the recommended appropriate treatment;
 - (E) Any person, to continue to be certified as mentally disabled, physically disabled, or both mentally and physically disabled, shall be reevaluated annually, as provided by this section, and more frequently, as required by the department provided that after twelve months or upon turning 65, the department refers the person for eligibility under the aged blind and permanently and totally disabled program; and
 - (F) Failure to pursue appropriate medical treatment shall result in a loss of eligibility, unless the failure is due to good cause. ~~[Good cause shall include but not be limited to:~~

- ~~(i) Treatment is unavailable;~~
- ~~(ii) Personal emergencies; and~~
- ~~(iii) Circumstances that threaten the safety of the patient.~~

~~The department shall adopt rules in accordance with chapter 91 to define "good cause", as used in subparagraph (F), in order to determine when treatment is unavailable, what constitutes a personal emergency, what circumstances may threaten the safety of a patient, and other factors that may constitute good cause.]~~

As used in this subsection:

"Good cause" shall include, but not be limited to:

- (v) Treatment is unavailable;
- (vi) Personal emergencies;
- (vii) Circumstances that threaten the safety of the patient; and
- (viii) Disability affects the ability of the patient to follow-through with recommendations.

The department shall adopt rules in accordance with chapter 91 to define "good cause," as used above, in order to determine when treatment is unavailable, what constitutes a personal emergency, what circumstances may threaten the safety of a patient, what diagnosed disability affects the ability of the patient to follow-through with recommendations, and other factors that may constitute good cause.

"Substantial gainful employment" means at least thirty hours of work per week.

"With a disability" or "having a disability" means a disability that extends for a period of over sixty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition

of eligibility for the receipt of general assistance to households without minor dependents under this section. An assistance unit shall be determined ineligible for general assistance to households without minor dependents if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment and participate in public work projects, as described in section 346-31, and in public employment projects, as described in section 346-102.

(c) Applicants and recipients shall be required to satisfy all applicable provisions of this section. Recipients disqualified for failure to comply with any of the requirements under this section shall be excluded from general assistance to households without minor dependents for a period not to exceed twelve months.

(d) The allowance for general assistance to households without minor dependents shall not exceed sixty-two and one-half per cent of the standard of need.

(e) Within the limitations of this section, the department shall by rules adopted pursuant to chapter 91, determine:

- (1) The allowance for general assistance to households without minor dependents based upon the total amount appropriated for general assistance to households without minor dependents;
- (2) A method for determining assistance amounts; and
- (3) Other necessary provisions to implement general assistance to households without minor dependents.

(f) Any month in which a person receives assistance pending an eligibility determination for the federal Supplemental Security Income Program or a successor program shall not be counted towards the twelve-month limit."

SECTION 2. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

a) ~~This subsection does not apply to general assistance to households without minor dependents.~~ The standard of need shall equal the poverty level established by the federal government in 2006, prorated over a twelve-month period based on family size.

The assistance allowance provided shall be based on a percentage of the standard of need. For exempt households and households in which all caretaker relatives are minors, living independently with minor dependents and attending school, the assistance allowance shall be set no higher than sixty-two and one-half per cent and no lower than forty-four per cent of the standard of need. For all other households, the assistance allowance shall be set no higher than sixty-two and one-half per cent of the standard of need and set no lower than thirty-four per cent of the standard of need. The standard of need shall be determined by dividing the 2006 federal poverty level by twelve and rounding down the quotient. The remaining quotient shall be multiplied by the per cent as set by the director by rules pursuant to chapter 91, and the final product shall be rounded down to determine the assistance allowance; provided that:

- (1) The department may increase or reduce the assistance allowance as determined in this subsection for non-exempt households for the purpose of providing work incentives or services under part XI;
- (2) No reduction shall be allowed that jeopardizes eligibility for or receipt of federal funds;
- (3) Reductions in the assistance allowance shall be limited to no more than one per year; and
- (4) No non-exempt household, which includes an adult who has received sixty cumulative months of temporary assistance to needy families with minor dependents, shall be eligible for an assistance allowance, unless authorized by federal regulations.

~~[(b) The director shall determine the allowance for general assistance to households without minor dependents based upon the total amount appropriated for general assistance to households without minor dependents, among other relevant factors.]~~

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2009.



House HUS Cmte
Thurs, Feb 12, 2009
8:00 am
room 329

National Association of Social Workers

Hawaii Chapter

February 9, 2009

TO: Representative John Mizuno, Chair
Members of the House Human Services Committee

FROM: Debbie Shimizu, LSW
National Association of Social Workers, Hawaii Chapter

RE: HB1098 Relating to General Assistance- **SUPPORT with AMENDMENTS**

Chair Mizuno and members of the House Human Services Committee, I am Debbie Shimizu, Executive Director of the National Association of Social Workers (NASW), Hawaii Chapter. I am also a member of the Financial Assistance Advisory Council (FAAC) of DHS. NASW is the largest professional organization for social workers in Hawaii.

NASW support HB 1098 with proposed amendments.

The purpose of HB 1098 is to change the way the General Assistance (GA) program is funded. Currently the program is funded by a block grant appropriated by the Legislature. The Department has admitted that having GA as a fixed block grant is difficult to maintain when the number of individuals applying for GA is increasing. For the past few years, the amount of the GA block grant has been inadequate to maintain paying all recipients at the \$469/mon level. We applaud the Department for continuing to fund GA recipients at this level despite the inadequate funds in the block grant. The Department has had to "borrow" from the appropriation for the ABD population to maintain giving \$469/mon to GA recipients. To avoid this practice of "borrowing" from the ABD appropriation, we support the amendments proposed by Legal Aid Society of Hawaii to change General Assistance into an entitlement program rather than a block grant.

The Financial Assistance Advisory Council has discussed this issue with the DHS and both have agreed to proceed making both programs (ie, ABD and GA) entitlement programs.

Thank you for this opportunity to testify.

From: Joel Fischer [REDACTED]@hawaii.edu
Sent: Tuesday, February 10, 2009 9:48 AM
To: HUS testimony
Subject: HB1098;HUS;2/12/09;8AM;Rm329

Importance: High

HB1098, Relating to GA
HUS: Chair, Rep Mizuno

PLEASE KILL OR MODIFY THIS BILL!

I realize that DHS is trying to accommodate to the fiscal crisis. But GA recipients are all disabled, all extremely vulnerable, and all are symbolic of what we mean by the safety net. GA recipients have nowhere to go if removed from GA.

This bill proposes making Recipients of GA limited to 1-year of benefits. The bill does seem to suggest that those in the process of applying for SSDI are exempt from that provision. However, the bill makes no sense. Unless the DHS guarantees that those who are to be removed from GA be transferred into the Aid to ABD program, what is the point of penalizing clients when the problems may lie with DHS?

For example, why would clients be removed? Typically, it might be because they do not follow-through on appointments, etc. But, as a professor of social work and a FAAC member, I can tell you without equivocation that **it is the job of the social worker to make sure barriers to client progress are removed.** This, clients must not be punished for the failing of workers!

So, I ask that the time limit be modified to 2 years or to be removed all together. Our people need help in this awful fiscal environment!

A second issue in this bill is changing the period of re-evaluation of eligibility from 1 year to 6 months. **I oppose this provision.** First, it is based on the mistaken idea that GA will be a 12-month program. Second, DHS does not have the personnel to even complete **1-year** re-evaluations! This provision must be dropped and the 1-year period for re-evaluations maintained.

I want to note that in a FAAC meeting on 2/9/09, Director Koller indicated she could support these changes.

Thank you for considering these modifications.

Aloha, joel

Dr. Joel Fischer, ACSW
President, 19-3, Democratic Party

Professor
University of Hawai'i, School of Social Work
Henke Hall
Honolulu, HI 96822

Date: February 10, 2009

To: SENATE COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr, Vice-Chair

From: Teresa Bill ph: 956-9313

Re: HB 1098 relating to General Assistance
Thurs. Feb. 12 2009 8:00 a.m.
Conference Room 329 1 copy to Committee Clerk, room 315

My name is Teresa Bill. **I support HB 1098 with amendments.**

The General Assistance program is an important part of Hawai'i's safety net which allows individuals without minor dependents to receive some financial assistance while temporarily disabled (more than 60 days). Currently there is no time limit on participation. One impetus for the Dept. to implement a 12-month time limit is because many individuals are actually in the process of applying for federal disability benefits through Social Security Disability Insurance.

I support **amending the time limit for eligibility to 24-months** to ensure that adequate time has been allowed to ensure the individual has time to apply to SSDI or to fully recover from their temporary disability. Page 3 line 14 ("for a period not to exceed 24 months") and page 8 line 16 are the two references to the time limit for eligibility.

I also **support** any language proposed by the Legal Aid Society of Hawai'i **ensuring a "good cause" exemption** for failing to meet deadlines for medical determinations and medical appointments. With recent cut to mental health case management, individuals with mental disabilities will find it more difficult to make and keep appointments and will need additional assistance.

I also **support amendments** proposed by the Legal Aid Society of Hawai'i to create a new Section 2 at page 8 line 17 **which changes General Assistance from a "block grant appropriation" to a straight entitlement program which would mirror the AABD (Aged, Blind, and Permanently Disabled) program.** This would also address the disjuncture between the funding mechanisms for GA and the AABD programs. Changing General Assistance from a block grant would mean that individuals would not have to worry about whether their monthly assistance will be maintained throughout the full year; that assistance levels would be maintained at the current \$469 per month which is 50% of the 2006 Federal Poverty Level. The Dept. has been able to shuffle funds between programs to maintain General Assistance payments, but it should be policy that individuals eligible for General Assistance, who are temporarily disabled could expect a standard payment. With the current block grant, it is conceivable that when the budget appropriation is used, individuals' monthly assistance is reduced. The Dept. has made a great effort to maintain General Assistance payments, and taking General Assistance off a "block grant" would make this effort easier.

To recap: I support amending HB1098 to extend the eligibility to 24 months, with additional language ensuring the inclusion of "good cause" for any failure to meet deadlines; and I support appropriate legal language that changes General Assistance from a block grant to a straight entitlement program.

Thank you for this opportunity to testify.