

# S.B. NO. 2798

JAN 24 2018

## A BILL FOR AN ACT

RELATING TO INTELLECTUAL AND DEVELOPMENTAL DISABILITIES MEDICAID  
WAIVER ADMINISTRATIVE CLAIMING SPECIAL FUND.

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

1       SECTION 1. The department of health developmental  
2       disabilities division is the operating agency for the Hawaii  
3       medicaid section 1915(c) Home and Community-Based Services for  
4       People with Intellectual and Developmental Disabilities waiver.  
5       The department of health operates the waiver pursuant to a  
6       memorandum of agreement with the department of human services,  
7       which is the state medicaid agency supervising the  
8       administration of the waiver. Therefore, the department of  
9       health can claim allowable medicaid federal financial  
10      participation for the proper and necessary costs incurred by the  
11      department in administering the waiver. Administrative claiming  
12      has become increasingly important to defray the rising costs to  
13      states for administration of medicaid programs. To date, the  
14      department of health has conducted minimal administrative  
15      claiming, and without a special fund to deposit and use  
16      administrative federal financial participation for operating the  
17      medicaid section 1915(c) Home and Community-Based Services for

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1 People with Intellectual and Developmental Disabilities waiver,  
2 the department will lack a fund to ensure the proper and  
3 efficient administration of the waiver, and the growing federal  
4 requirements for community integration, quality and  
5 accountability.

6 The requirements of operating the waiver are specified in  
7 the State's waiver application approved by the federal Centers  
8 for Medicare and Medicaid Services. Through the delegated  
9 functions, the department must assure the health and welfare of  
10 waiver participants, coordinate services, and ensure the service  
11 quality. Specific requirements for the operating authority  
12 include completing initial intake for new waiver applicants,  
13 completing annual re-determinations of level of care for  
14 continued eligibility, performing fiscal oversight to ensure  
15 that waiver enrollment and expenditures are managed against  
16 federally approved limits, implementing person-centered planning  
17 processes, developing and monitoring participant individualized  
18 service plans, pre-authorizing waiver services, managing  
19 utilization, enrolling qualified providers and provider  
20 monitoring, establishing a statewide rate methodology,  
21 developing policies and procedures for operating the waiver  
22 subject to department of human services approval, and

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1 implementing quality assurance and improvement activities for  
2 required performance measures. The department is contracting to  
3 develop a new information technology system to assist case  
4 managers manage information and provide analytics. Many of the  
5 activities performed by department staff or contracted entities  
6 can be claimed as administrative costs.

7 SECTION 2. Chapter 333F, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§333F- Intellectual and developmental disabilities  
11 Medicaid waiver administrative claiming special fund. (a)

12 There is established in the treasury of the State the  
13 intellectual and developmental disabilities medicaid waiver  
14 administrative claiming special fund, into which shall be  
15 deposited:

- 16 (1) All revenues from medicaid administrative claiming  
17 designated for the department that are allowable for  
18 operating the Hawaii section 1915(c) Home and  
19 Community-Based Services for People with Intellectual  
20 and Developmental Disabilities waiver;  
21 (2) Appropriations made by the legislature to the fund;  
22 (3) Other grants and gifts made to the fund; and

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1       (4) Any income and capital gains earned by the fund.

2       (b) Moneys in the intellectual and developmental  
3 disabilities medicaid waiver administrative claiming special  
4 fund shall be used by the department for the following purposes:

5       (1) Payment for fiscal management services of the Hawaii  
6 section 1915(c) Home and Community-Based Services for  
7 People with Intellectual and Developmental  
8 Disabilities waiver;

9       (2) Training of staff, waiver providers, waiver  
10 participants, their families, and their legal  
11 representatives, and community stakeholders;

12       (3) Quality management activities for operating the Hawaii  
13 section 1915(c) Home and Community-Based Services for  
14 People with Intellectual and Developmental  
15 Disabilities waiver;

16       (4) Ongoing operations and maintenance of the information  
17 technology system;

18       (5) Conducting rate methodology studies to define rates  
19 for the Hawaii section 1915(c) Home and Community-  
20 Based Services for People with Intellectual and  
21 Developmental Disabilities waiver; and

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1        (6) Assessment services for determining participant's  
2        level of support needs.

3        (c) The department shall submit to the legislature no  
4        later than twenty days prior to the convening of each regular  
5        session a written annual report that provides an accounting of  
6        the receipts of and expenditures from the intellectual and  
7        developmental disabilities medicaid waiver administrative  
8        claiming special fund."

9        SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
10       amended by amending subsection (a) to read as follows:

11       "(a) Except as provided in this section, and  
12       notwithstanding any other law to the contrary, from time to  
13       time, the director of finance, for the purpose of defraying the  
14       prorated estimate of central service expenses of government in  
15       relation to all special funds, except the:

16       (1) Special out-of-school time instructional program fund  
17       under section 302A-1310;

18       (2) School cafeteria special funds of the department of  
19       education;

20       (3) Special funds of the University of Hawaii;

21       (4) State educational facilities improvement special fund;

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- 1       (5)   Convention center enterprise special fund under
- 2           section 201B-8;
- 3       (6)   Special funds established by section 206E-6;
- 4       (7)   Aloha Tower fund created by section 206J-17;
- 5       (8)   Funds of the employees' retirement system created by
- 6           section 88-109;
- 7       (9)   Hawaii hurricane relief fund established under chapter
- 8           431P;
- 9       (10)   Hawaii health systems corporation special funds and
- 10          the subaccounts of its regional system boards;
- 11       (11)   Tourism special fund established under section 201B-
- 12          11;
- 13       (12)   Universal service fund established under section 269-
- 14          42;
- 15       (13)   Emergency and budget reserve fund under section 328L-
- 16          3;
- 17       (14)   Public schools special fees and charges fund under
- 18          section 302A-1130;
- 19       (15)   Sport fish special fund under section 187A-9.5;
- 20       [+] (16) [+] Neurotrauma special fund under section 321H-4;
- 21       [+] (17) [+] Glass advance disposal fee established by section
- 22          342G-82;

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[+] (18) [+] Center for nursing special fund under section 304A-  
2163;

[+] (19) [+] Passenger facility charge special fund established  
by section 261-5.5;

[+] (20) [+] Solicitation of funds for charitable purposes  
special fund established by section 467B-15;

[+] (21) [+] Land conservation fund established by section  
173A-5;

[+] (22) [+] Court interpreting services revolving fund under  
section 607-1.5;

[+] (23) [+] Trauma system special fund under section 321-22.5;

[+] (24) [+] Hawaii cancer research special fund;

[+] (25) [+] Community health centers special fund;

[+] (26) [+] Emergency medical services special fund;

[+] (27) [+] Rental motor vehicle customer facility charge  
special fund established under section 261-5.6;

[+] (28) [+] Shared services technology special fund under  
section 27-43;

[+] (29) [+] Automated victim information and notification  
system special fund established under section 353-  
136;

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1       [+] (30) [+]   Deposit beverage container deposit special fund  
2                   under section 342G-104;  
3       [+] (31) [+]   Hospital sustainability program special fund under  
4                   [+]section 346G-4[+];  
5       [+] (32) [+]   Nursing facility sustainability program special  
6                   fund under [+]section 346F-4[+];  
7       [+] (33) [+]   Hawaii 3R's school improvement fund under section  
8                   302A-1502.4;  
9       [+] (34) [+]   After-school plus program revolving fund under  
10                  section 302A-1149.5; [and}  
11       [+] (35) [+]   Civil monetary penalty special fund under section  
12                  321-30.2[7]; and  
13       (36)   Intellectual and developmental disabilities medicaid  
14              waiver administrative claiming special fund under  
15              section 333F- ,  
16 shall deduct five per cent of all receipts of all other special  
17 funds, which deduction shall be transferred to the general fund  
18 of the State and become general realizations of the State. All  
19 officers of the State and other persons having power to allocate  
20 or disburse any special funds shall cooperate with the director  
21 in effecting these transfers. To determine the proper revenue  
22 base upon which the central service assessment is to be

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1 calculated, the director shall adopt rules pursuant to chapter  
2 91 for the purpose of suspending or limiting the application of  
3 the central service assessment of any fund. No later than  
4 twenty days prior to the convening of each regular session of  
5 the legislature, the director shall report all central service  
6 assessments made during the preceding fiscal year."

7 SECTION 4. Section 36-30, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Each special fund, except the:

- 10 (1) Special out-of-school time instructional program fund  
11 under section 302A-1310;
- 12 (2) School cafeteria special funds of the department of  
13 education;
- 14 (3) Special funds of the University of Hawaii;
- 15 (4) State educational facilities improvement special fund;
- 16 (5) Special funds established by section 206E-6;
- 17 (6) Aloha Tower fund created by section 206J-17;
- 18 (7) Funds of the employees' retirement system created by  
19 section 88-109;
- 20 (8) Hawaii hurricane relief fund established under chapter  
21 431P;

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(9) Convention center enterprise special fund established under section 201B-8;

(10) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;

(11) Tourism special fund established under section 201B-11;

(12) Universal service fund established under section 269-42;

(13) Emergency and budget reserve fund under section 328L-3;

(14) Public schools special fees and charges fund under section 302A-1130;

(15) Sport fish special fund under section 187A-9.5;

+(16)+ Neurotrauma special fund under section 321H-4;

+(17)+ Center for nursing special fund under section 304A-2163;

+(18)+ Passenger facility charge special fund established by section 261-5.5;

+(19)+ Court interpreting services revolving fund under section 607-1.5;

+(20)+ Trauma system special fund under section 321-22.5;

+(21)+ Hawaii cancer research special fund;

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- 1     ~~+(22)+~~ Community health centers special fund;  
2     ~~+(23)+~~ Emergency medical services special fund;  
3     ~~+(24)+~~ Rental motor vehicle customer facility charge special  
4             fund established under section 261-5.6;  
5     ~~+(25)+~~ Shared services technology special fund under section  
6             27-43;  
7     ~~+(26)+~~ Nursing facility sustainability program special fund  
8             established pursuant to ~~[+]~~section 346F-4~~[+]~~;  
9     ~~+(27)+~~ Automated victim information and notification system  
10            special fund established under section 353-136;  
11    ~~+(28)+~~ Hospital sustainability program special fund under  
12            ~~[+]~~section 346G-4~~[+]~~; and  
13    ~~+(29)+~~ Civil monetary penalty special fund under section  
14            321-30.2~~[7]~~; and  
15    (30) Intellectual and developmental disabilities medicaid  
16    waiver administrative claiming special fund under  
17    section 333F-\_\_\_\_,

18 shall be responsible for its pro rata share of the  
19 administrative expenses incurred by the department responsible  
20 for the operations supported by the special fund concerned."

21       SECTION 5. There is appropriated out of the general  
22 revenues of the State of Hawaii the sum of \$\_\_\_\_\_ or so

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1 much thereof as may be necessary for fiscal year 2018-2019 for  
2 deposit into intellectual and developmental disabilities  
3 medicaid waiver administrative claiming special fund.

4 The sum appropriated shall be expended by the department of  
5 health for the purposes of this Act.

6 SECTION 6. There is appropriated out of the intellectual  
7 and developmental disabilities medicaid waiver administrative  
8 claiming special fund the sum of \$\_\_\_\_\_ or so much thereof  
9 as may be necessary for fiscal year 2018-2019 to be used in  
10 support of individuals with intellectual and developmental  
11 disabilities.

12 The sum appropriated shall be expended by the department of  
13 health for the purposes of this Act.

14 SECTION 7. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act, upon its approval, shall take effect  
17 on July 1, 2018.

18

19

INTRODUCED BY:



20

BY REQUEST

21

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**Report Title:**

Intellectual and Developmental Disabilities Medicaid Waiver  
Administrative Claiming Special Fund

**Description:**

Create the Intellectual and Developmental Disabilities Medicaid Waiver Administrative Claiming Special Fund into which federal moneys may be deposited from Department of Health participation in the waiver program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO INTELLECTUAL AND DEVELOPMENTAL DISABILITIES MEDICAID WAIVER ADMINISTRATIVE CLAIMING SPECIAL FUND.

PURPOSE: To create the Intellectual and Developmental Disabilities Medicaid Waiver Administrative Claiming Special Fund into which federal moneys may be deposited from Department of Health participation in the waiver program.

MEANS: Add a new section to chapter 333F, Hawaii Revised Statutes (HRS), and amend sections 36-27, 36-30 and 333F-17.5, HRS .

JUSTIFICATION: The Hawaii State Department of Health, Developmental Disabilities Division operates the Medicaid section 1915(c) Home and Community-Based Waiver for people with intellectual and developmental disabilities (I/DD) through a memorandum of agreement, with the Hawaii State Department of Human Services MedQuest Division.

The requirements of operating the waiver are specified in the State's waiver application approved by the federal Centers for Medicare and Medicaid Services. The department of health must assure the health and welfare of waiver participants, coordinate services, and ensure service quality. Medicaid administrative claiming is allowed for the proper and efficient administration of the waiver.

Currently, there is limited administrative claiming for waiver operations, and funds that are claimed are deposited in the general fund rather than available for the proper and efficient administration of the waiver as allowed by CMS. A special fund is needed to address the requirements for administering the waiver, modernizing operations and

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compliance with new federal requirements including mandates that require sweeping changes to home and community based waiver services and the settings they are provided in.

Impact on the public: Reinvestment of federal reimbursement moneys will enhance waiver program sustainability and improve the quality of services to beneficiaries.

Impact on the department and other agencies: The department will need to work with the Department of Human Services to amend the CMS cost allocation plan including the submittal of an advanced planning document for the information technology system.

GENERAL FUND: None.

OTHER FUNDS: N/A.

PPBS PROGRAM  
DESIGNATION: HTH 501.

OTHER AFFECTED  
AGENCIES: Department of Human Services; Department of Budget and Finance.

EFFECTIVE DATE: July 1, 2018.