

MAR 12 2021

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# SENATE RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH TO CHANGE ITS ELIGIBILITY CRITERIA FOR THE HOME AND COMMUNITY-BASED SERVICES MEDICAID WAIVER FOR INDIVIDUALS HAVING INTELLECTUAL OR DEVELOPMENTAL DISABILITIES, OR MENTAL ILLNESSES.

1 WHEREAS, Hawaii residents having intellectual and  
2 developmental disabilities who are eligible for services from  
3 the Developmental Disabilities Division are eligible for  
4 Medicaid, and if they meet the level of care criteria, they may  
5 apply for the Medicaid Section 1915(c) Home and Community-Based  
6 Services Waiver for Individuals with Intellectual and  
7 Developmental Disabilities, otherwise known as the Medicaid I/DD  
8 Waiver; and

9  
10 WHEREAS, the Med-QUEST Division of the Department of Human  
11 Services works in partnership with the Developmental  
12 Disabilities Division of the Department of Health and  
13 stakeholders to design an appropriate waiver that meets the  
14 needs of individuals having intellectual and developmental  
15 disabilities; and

16  
17 WHEREAS, both divisions ensure that the waiver is  
18 implemented in compliance with all waiver requirements, federal  
19 and state laws, and waiver standards; and

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21 WHEREAS, pursuant to section 11-88.1-1.5(a), Hawaii  
22 Administrative Rules, to be considered as having an  
23 developmental disability, an individual must have, among other  
24 factors, a diagnosis that meets the definition of an eligible  
25 condition for a severe and chronic disability, including  
26 cerebral palsy; epilepsy; autism spectrum disorder; or a  
27 neurological condition, central nervous system disorder, or  
28 chromosomal disorder that results in impairment in both general  
29 intellectual functioning and adaptive behavior; and

30  
31 WHEREAS, pursuant to section 11-88.1-1.5(a)(3), Hawaii  
32 Administrative Rules, an individual is ineligible for the  
33 Medicaid I/DD Waiver if the individual's impairments are  
34 primarily from dementia, mental illness, an emotional disorder,



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1 substance abuse, sensory impairment, a learning disability,  
2 attention deficit hyperactivity disorder, a spinal cord injury,  
3 or a neuromuscular disorder; and

4  
5 WHEREAS, section 11-88.1-1.5(a)(3), Hawaii Administrative  
6 Rules, unfairly excludes from eligibility from services a number  
7 of individuals who would otherwise be eligible based on their  
8 developmental disabilities; and

9  
10 WHEREAS, the Department of Health may amend or repeal  
11 administrative rules under its purview, unless otherwise  
12 prohibited by federal or state laws or agreements with federal  
13 authorities; now, therefore,

14  
15 BE IT RESOLVED by the Senate of the Thirty-first  
16 Legislature of the State of Hawaii, Regular Session of 2021,  
17 that the Department of Health is requested to change its  
18 eligibility criteria for the Home and Community-Based Services  
19 Medicaid Waiver for Individuals with Developmental Disabilities;  
20 and

21  
22 BE IT FURTHER RESOLVED that if the Department of Health may  
23 repeal section 11-88.1-1.5(a)(3), Hawaii Administrative Rules,  
24 without violating any federal or state law or any binding  
25 agreements with federal authorities, the Department of Health is  
26 requested to take steps necessary under Chapter 91, Hawaii  
27 Revised Statutes, for that repeal; and

28  
29 BE IT FURTHER RESOLVED that if the Department of Health  
30 believes that the repeal of section 11-88.1-1.5(a)(3), Hawaii  
31 Administrative Rules, would be in violation of any federal or  
32 state law or any agreement with federal authorities, the  
33 Department of Health is requested to take steps necessary to  
34 remove any prohibiting factors that would preclude the repeal,  
35 including the proposal of appropriate legislation and the  
36 renegotiation of applicable agreements with federal authorities;  
37 and

38  
39 BE IT FURTHER RESOLVED that the Director of Health is  
40 requested to submit a status report on its development of new  
41 eligibility criteria, including any proposed legislation, to the



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1 Legislature no later than twenty days prior to the convening of  
2 the Regular Session of 2022; and

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4 BE IT FURTHER RESOLVED that certified copies of this  
5 Resolution be transmitted to the Director of Health,  
6 Administrator of the Division of Developmental Disabilities,  
7 Director of Human Services, and Administrator of the Med-QUEST  
8 Division.

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OFFERED BY: Kurt Ferella

