

S.B. NO. 3113

JAN 26 2022

A BILL FOR AN ACT

RELATING TO KUPUNA CARE PROGRAM.

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

1 SECTION 1. The purpose of this Act is to improve
2 government efficiency by amending part II of chapter 349, Hawaii
3 Revised Statutes, entitled kupuna care and caregiver support
4 services, to incorporate the kupuna caregivers program into the
5 kupuna care program.

6 SECTION 2. Section 349-16, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§349-16 Definitions.** Unless the context clearly requires
9 a different meaning, when used in this part:

10 "Activities of daily living" means the following activities
11 that individuals perform as a part of daily living: eating,
12 dressing, bathing, toileting, transferring in and out of a bed
13 or chair, and walking.

14 "Adult day care" means personal care for dependent elders
15 in a supervised, protective, and congregate setting during some
16 portion of a day. Services offered in conjunction with adult

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1 day care include social and recreational activities, training,
2 and counseling.

3 "Aging and disability resource centers" means an entity
4 established by the State as part of the state system of long-
5 term care, serving as a highly visible and trusted source where
6 people of all incomes and ages can [~~get~~] obtain information on
7 the full range of long-term support options, and a single point
8 of entry for access to public long-term support programs and
9 benefits.

10 "Area agency on aging" means an agency designated by the
11 executive office on aging to develop and administer the area
12 plan for a comprehensive and coordinated system of aging
13 services.

14 "Assisted transportation" means assistance and
15 transportation, including escort, for a person who has cognitive
16 or physical difficulties using regular vehicular transportation.

17 "Attendant care" means standby assistance, supervision, or
18 cues, including verbal prompts for medication, bathing, eating,
19 grooming, and dressing, and may also include other activities to
20 help maintain the independence of an individual at home.

21 "Attendant care" does not include physical contact in support,
22 including but not limited to weight-bearing assistance with
23 transfers, washing, bathing, and dressing.

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1 "Care coordination" means a person-centered, assessment-
2 based, interdisciplinary approach to integrating health care and
3 social support services that are tailored to an individual's
4 needs and goals across all care services.

5 "Care recipient" means an individual who:

6 (1) Is a citizen of the United States or a qualified
7 alien; provided that for the purposes of this
8 paragraph, "qualified alien" means a lawfully admitted
9 permanent resident under the Immigration and
10 Nationality Act;

11 (2) Is sixty years of age or older;

12 (3) Is not covered by any comparable government or private
13 home- and community-based care service, except or
14 excluding kupuna care services;

15 (4) Does not reside in a long-term care facility, such as
16 an intermediate care facility, assisted living
17 facility, skilled nursing facility, hospital, foster
18 family home, community care foster family home, adult
19 residential care home, or expanded adult residential
20 care home; and

21 (5) Has impairments of at least:

22 (A) Two activities of daily living;

23 (B) Two instrumental activities of daily living;

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(C) One activity of daily living and one instrumental activity of daily living; or

(D) Substantive cognitive impairment requiring substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or another person.

"Caregiver" means a spouse, adult child, other relative, partner, or friend who has a personal relationship with and provides a broad range of unpaid assistance for an older adult with a chronic or disabling condition.

"Caregiver support services" means services that offer education, skills, knowledge, mental, emotional, or social support to employed caregivers.

"Case management" means assistance either in the form of access or care coordination in circumstances where an individual is experiencing diminished functioning capacities, personal conditions, or other characteristics that require the provision of services by formal service providers, caregivers, or ~~[family]~~ employed caregivers. Activities of case management may include assessing needs, developing care plans, authorizing and coordinating services among providers, and providing follow-up and reassessment, as required.

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"Chore" means assistance such as heavy housework, yard work, or sidewalk maintenance for a person.

"Coach" means an individual who:

- (1) Helps the care recipient understand the program of participant-directed services and support;
- (2) Develops and implements a spending plan to describe how the care recipient will spend the care recipient's budget; ~~and~~
- (3) Evaluates whether the participant-directed service and support program is meeting the care recipient's needs~~[...]~~; and
- (4) Assists the care recipient with the program's enrollment process, including completing necessary forms such as state and federal tax forms, privacy and confidentiality forms, criminal background check forms, financial management forms, employer and employee related forms, and forms requested by the executive office on aging for enrollment.

"Employed caregiver" means an individual who meets the following requirements:

- (1) Provides care for a care recipient; and
- (2) Is employed at least twenty hours per week by one or more employers or is self-employed.

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1 ~~["Family caregivers" means a spouse, adult child, other~~
2 ~~relative, partner, or friend who has a personal relationship~~
3 ~~with, and provides a broad range of unpaid assistance for an~~
4 ~~older adult with a chronic or disabling condition.]~~

5 "Financial management service provider" means an agency
6 under contract with the executive office on aging to act as the
7 fiscal and employer agent on behalf of a care recipient to
8 manage employer-related functions, process payment to employees
9 and vendors, and monitor the care recipient's allocation of
10 funds.

11 "Home-delivered meals" means a meal provided to a care
12 recipient in the care recipient's place of residence; provided
13 that the meal is served in a program administered by the
14 executive office on aging or an area agency on aging and meets
15 all of the requirements of the Older Americans Act of 1965, as
16 amended, and all state and local laws.

17 "Homemaker [~~services~~]" means a person that provides
18 assistance with preparing meals, shopping for personal items,
19 managing money, using the telephone, or performing light
20 housework.

21 "Instrumental activities of daily living" means the
22 following instrumental activities that individuals perform as a
23 part of daily living: preparing meals, shopping for personal

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items, medication management, managing money, using the telephone, performing light housework, performing heavy housework, and making use of available transportation.

"Kupuna care ~~[core]~~ services" means ~~[services consisting of]~~ :

(1) Services for the employed caregiver, including or, as follows:

(A) Adult day care;

(B) Respite care; or

(C) Caregiver support services;

(2) Services for the care recipient, including or, as follows:

(A) Attendant care;

~~[+3+]~~ (B) Case management;

(C) Care coordination;

~~[+4+ Chores;]~~ (D) Chore;

~~[+5+]~~ (E) Homemaker ~~[services]~~;

~~[+6+]~~ (F) Home-delivered meals;

~~[+7+]~~ (G) Personal care;

~~[+8+]~~ (H) Transportation; or

~~[+9+]~~ (I) Assisted transportation.

"Personal care" means personal assistance, standby assistance, supervision, or cues.

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1 "Person-centered planning" means a process, ~~[directed by~~
2 ~~the care recipient,]~~ intended to identify the strengths,
3 capacities, preferences, needs, and desired outcomes of the care
4 recipient~~[-]~~, caregiver, or employed caregiver.

5 "Person-centered support plan" or "support plan" means a
6 plan developed by a care recipient, caregiver, or employed
7 caregiver ~~[with the assistance of a coach]~~ that allows the care
8 recipient, caregiver, or employed caregiver to establish the
9 goals, skills, and knowledge necessary to work toward the
10 desired outcomes and lays out practical steps toward the
11 achievement of the goals; provided that family members and
12 friends may provide assistance in developing a care recipient's
13 plan if the care recipient chooses to include them.

14 ~~["Qualified caregiver" means an individual who meets the~~
15 ~~following requirements:~~

- 16 ~~(1) Provides care for a care recipient; and~~
17 ~~(2) Is employed at least thirty hours per week by one or~~
18 ~~more employers.]~~

19 "Respite care" means services that offer temporary,
20 substitute supports, or living arrangements for care recipients
21 to provide a brief period of rest to ~~[qualified]~~ employed
22 caregivers. "Respite care" includes:

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(1) In-home respite (personal care, homemaker [~~services~~], and other in-home respite);

(2) Respite provided by attendance of the care recipient at a nonresidential program;

(3) Institutional respite provided by placing the care recipient in an institutional setting such as a nursing home for a short period of time as a respite service to the employed caregiver; and

(4) Any combination of services to assist the employed caregiver as deemed appropriate by the area agency on aging.

"Service provider" means an entity that has all required licenses or certificates, and is registered as a business entity in the State.

"Transportation" means transportation from one location to another with a vehicle and does not include any other activity."

SECTION 3. Section 349-17, Hawaii Revised Statutes, is amended to read as follows:

"§349-17 Kupuna care program. (a) The executive office on aging may establish the kupuna care program. The program shall provide an array of long-term services and supports to address the needs of Hawaii's older adults [~~and their desire to remain in their own homes and communities as they age.~~] to age

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1 in place and avoid institutionalization and provide support
2 services to caregivers or employed caregivers in their effort to
3 assist older adults to continue residing in their homes.

4 (b) The program shall be coordinated and administered by
5 the executive office on aging and implemented through the area
6 agencies on aging.

7 (c) To qualify for the kupuna care program, an individual
8 shall be a care recipient, caregiver, or employed caregiver as
9 defined in section 349-16.

10 (d) An area agency on aging, through the aging and
11 disability resource center or other entity designated by the
12 executive office on aging, shall determine eligibility for the
13 program, which may include the following:

14 (1) An intake process to preliminarily determine
15 eligibility for publicly-funded services and supports,
16 including kupuna care services;

17 (2) A comprehensive in-home assessment of the care
18 recipient or a caregiver assessment, if necessary;
19 and

20 (3) A written individualized person-centered support plan
21 that identifies all the services and supports needed
22 or currently used to meet the needs of the care
23 recipient, caregiver, or employed caregiver, including

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1 those provided by other programs such as Medicaid or
2 privately paid programs.

3 (e) An area agency on aging shall use the assessment data
4 and individual's support plan to confirm kupuna care program
5 eligibility, then authorize and coordinate services and
6 supports. An area agency on aging shall authorize and allot
7 kupuna care services and shall not delegate the service
8 authorization function to its subcontractors.

9 [e] (f) The kupuna care program shall be delivered through
10 two distinct service options: traditional service delivery or
11 participant-directed services and support, based on an
12 [individual] individualized, person-centered support plan for
13 each eligible care recipient[-], caregiver, or employed
14 caregiver; provided that:

15 (1) Traditional service delivery shall be a service
16 provider ~~[organization or person who provides services~~
17 ~~to clients under a formal contractual arrangement with~~
18 ~~the executive office on aging or area agency on aging~~
19 ~~who shall deliver to each care recipient one or more~~
20 ~~kupuna care core services to address the care~~
21 ~~recipient's specific needs that have been identified~~
22 ~~in the care recipient's person-centered support plan;~~
23 ~~and] who provides services to care recipients,~~

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1 caregivers, and employed caregivers under a formal
2 contractual arrangement with the executive office on
3 aging or area agency on aging; and

4 (2) Participant-directed services and support shall
5 address the care recipient's assessed needs [~~that have~~
6 ~~been identified through the person-centered planning~~
7 ~~process and documented in the support plan.~~

8 ~~Participant directed services and support shall~~
9 ~~consist of long term services and supports that a care~~
10 ~~recipient uses to maintain independence in the~~
11 ~~community, in which the care recipient determines what~~
12 ~~mix of services and support will address the care~~
13 ~~recipient's needs.] through person-centered planning.~~

14 The care recipient shall have decision-making
15 authority over [~~the care recipient's budgeted dollar~~
16 ~~amount]~~ their own budget to purchase and manage [~~the~~
17 ~~their~~ needed services and supports based upon [~~the~~
18 ~~care recipient's]~~ their person-centered support plan.

19 [~~Participant directed services and support shall~~
20 ~~provide the care recipient with a coach to assist the~~
21 ~~care recipient with using the services and support in~~
22 ~~a manner that best supports the care recipient's~~

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~~ability to maintain independence and enable a quality
living experience in the community.~~

~~(d) To qualify for the kupuna care program, an individual
shall be a care recipient as defined in section 349-16.~~

~~(e) An area agency on aging, through the aging and
disability resource center or other entity designated by the
executive office on aging, shall conduct an intake and
assessment of individuals seeking long term services and
supports to determine eligibility for the program. The intake
and assessment shall include the following:~~

~~(1) A statewide uniform intake process developed with and
adopted by the executive office on aging to
preliminarily determine eligibility for publicly funded
services and supports, including kupuna care services;
and~~

~~(2) An assessment of the eligible care recipient utilizing
a statewide, uniform comprehensive in-home assessment,
if necessary. Upon completion of the in-home
assessment, the care recipient develops a written
individualized person-centered support plan with:~~

~~(A) The assistance of a coach in the preparation of
the support plan; and~~

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~~(B) Participation from family, friends, and others, if
the care recipient desires such additional
assistance.~~

~~The support plan identifies all the services and
supports needed or currently used to meet the care
recipient's needs, both formal and informal, including
those provided by other programs such as medicaid or
private paid programs. The plan shall be reviewed with
the care recipient to confirm that it is the plan the
care recipient desires.~~

~~(f) An area agency on aging shall use the assessment data
and individual's support plan to confirm kupuna care program
eligibility, then authorize and coordinate services and
supports. An area agency on aging shall directly authorize and
allot kupuna care services, and shall not delegate the service
authorization function to its subcontractors.]~~

(g) An individual shall be determined to be ineligible for
kupuna care services when:

(1) An individual does not meet the eligibility
requirements specified;

(2) An ~~[individual]~~ individual's need is not substantiated
through an in-home assessment;

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(3) An individual leaves the State or the individual's whereabouts are unknown; or

(4) An individual refuses services.

(h) An area agency on aging shall provide an individual with written notice of the disposition of ~~[the request]~~ ineligibility for kupuna care services.

(i) An individual who has been determined ineligible for kupuna care services shall have the opportunity to appeal the decision to the ~~[director of the executive office on aging within ninety days after the date of notice of the area agency on aging's written disposition. The director of the executive office on aging's decision on the appeal shall be issued in writing and shall be final.]~~ area agency on aging.

(j) Prior to termination of kupuna care services, service providers shall notify the ~~[appropriate contracting]~~ area agency on aging of the date and reason for termination. Termination of kupuna care services may occur if the care recipient~~[+]~~, caregiver, or employed caregiver:

(1) Moves and the provider is unable to locate the care recipient~~[+]~~, caregiver, or employed caregiver;

(2) Is transferred to another area agency on aging;

(3) Dies;

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(4) No longer needs or wants kupuna care services and supports, or no longer needs or wants a particular kupuna care service or support;

(5) Is uncooperative with the service provider;

(6) Is noncompliant with the basic requirements of the program;

(7) Engages in behavior that threatens or demonstrates violence toward the service provider;

(8) Is placed or resides in a long-term care facility, such as an intermediate care facility, assisted living facility, skilled nursing facility, hospital, community care foster ~~[eare]~~ family home, adult foster ~~[family]~~ home, adult residential care home, ~~[or]~~ expanded adult residential care home~~[+]~~, or developmental disabilities domiciliary home;

(9) Uses comparable services from other programs; or

(10) Has a communicable disease that threatens the safety and welfare of the service provider.

(k) All area agencies on aging shall record all consumer data, assessments, and service delivery within a statewide consolidated database.

(l) The kupuna care program shall award an allocation of funds to cover costs for services, subject to availability of

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1 funding, provided that the allocated funds shall be issued
2 directly to the service provider or financial management service
3 provider upon request and receipt of an invoice for services
4 rendered.

5 [1] (m) The director may adopt rules pursuant to chapter 91
6 necessary for the purposes of this section.

7 SECTION 4. Section 349-18, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§349-18 Kupuna caregivers program. (a) The executive~~
10 ~~office on aging may establish the kupuna caregivers program.~~
11 ~~The program shall provide assistance to a qualified caregiver~~
12 ~~who meets the requirements of this section.~~

13 ~~(b) The program shall be coordinated and administered by~~
14 ~~the executive office on aging and implemented through the area~~
15 ~~agency on aging. The executive office on aging shall develop~~
16 ~~and implement a plan to maximize the number of caregivers served~~
17 ~~by the program.~~

18 ~~(c) The kupuna caregivers program shall award an allocation~~
19 ~~of funds, subject to the availability of funding and up to a~~
20 ~~maximum of \$210 per week, to cover costs for services that would~~
21 ~~otherwise be performed by the qualified caregiver for the care~~
22 ~~recipient, including but not limited to:~~

23 ~~(1) Care coordination or case management;~~

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~~(2) Adult day care,~~

~~(3) Assisted transportation,~~

~~(4) Chores,~~

~~(5) Home-delivered meals,~~

~~(6) Homemaker services,~~

~~(7) Personal care,~~

~~(8) Respite care, or~~

~~(9) Transportation,~~

~~provided that the allocated funds shall be issued directly to the service provider upon request and receipt of an invoice for services rendered.~~

~~(d) The director may adopt rules pursuant to chapter 91 necessary for the purposes of this section."]~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY:



BY REQUEST

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Report Title:

Executive Office on Aging; Kupuna Care; Kupuna Caregivers;
Kupuna Care and Caregiver Support Services

Description:

Incorporates the kupuna caregivers program into the kupuna care program and adds services for care recipients, caregivers, and employed caregivers.

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

SB. NO. 3113

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO KUPUNA CARE PROGRAM.

PURPOSE: To improve government efficiency by incorporating the kupuna caregivers program into the kupuna care program.

MEANS: Amends part II of chapter 349, Hawaii Revised Statutes, entitled kupuna care and caregiver support services, sections 349-16 and 349-17, and repeals section 349-18.

JUSTIFICATION: Executive Office on Aging determined that having two programs that offer similar services for the care recipient and the caregiver causes silos in the system and does not lend itself to a seamless system of supports for older adults and their caregivers.

Impact on the public: The combined program model will provide an array of seamless services and supports to meet the holistic and comprehensive needs of the older adults and their caregivers. The impact to the public is minimal as the services provided will continue.

Impact on the department and other agencies: The EOA will provide programmatic and administrative guidance to the county area agencies on aging on implementing the kupuna care program.

GENERAL FUND: Additional \$1.5M EOA budget request

OTHER FUNDS: none

PPBS PROGRAM DESIGNATION: HTH 904

OTHER AFFECTED Area Agencies on Aging
AGENCIES:

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EFFECTIVE DATE: Upon approval