
A BILL FOR AN ACT

RELATING TO FAMILY CAREGIVER SUPPORT.

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

1 SECTION 1. The legislature finds that existing medicaid
2 and child care programs do not adequately account for situations
3 in which disabled adults are responsible for caring for
4 dependents. Eligibility rules often assume that family members
5 can provide care for another household member without evaluating
6 caregiver capacity, leaving families vulnerable when caregivers
7 themselves face significant health or functional limitations.
8 This gap can result in denial of essential services, increased
9 caregiver strain, unsafe conditions for children or dependents,
10 and even family separation or institutionalization.

11 The legislature further finds that federal medicaid rules
12 require that family caregiving be voluntary and not presumed,
13 but do not provide clear guidance on evaluating caregiver
14 capacity. At the state level, child care subsidies are
15 typically tied to a parent's employment or education, creating
16 barriers for parents with disabilities who are unable to work



1 but nevertheless require safe and reliable care for their
2 children.

3 The purpose of this Act is to strengthen the safety net for
4 Hawaii's most vulnerable families, prevent unnecessary
5 institutionalization, and help families remain safe, stable, and
6 together by:

7 (1) Extending child care subsidies to children of disabled
8 parents regardless of their employment status;

9 (2) Requiring the department of human services to evaluate
10 caregiver capacity and dependent-care responsibilities
11 when determining eligibility for medicaid home and
12 community-based services; and

13 (3) Requiring the department of human services to update
14 its functional assessment protocols to ensure that
15 families with disabled caregivers receive appropriate
16 and timely support.

17 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
18 amended by adding a new section to part VIII, subpart D, to be
19 appropriately designated and to read as follows:

20 "§346- Child care subsidies; eligibility; disabled
21 caregivers. (a) Notwithstanding any other requirement, the



1 department shall extend child care subsidy benefits to an
2 eligible child whose parent or guardian is physically or
3 mentally unable to provide safe and appropriate care for the
4 child due to a documented disability or health condition,
5 regardless of the parent's or guardian's employment, educational
6 status, or household status.

7 (b) Eligibility for child care subsidies under this
8 section shall apply to single parent and multi-adult households;
9 provided that a family shall not be denied child care subsidies
10 solely on the basis that the other parent could provide care
11 when not occupied or otherwise reasonably unavailable due to
12 their employment, training, education, or caregiving
13 responsibilities outside of the home.

14 (c) In order to qualify for child care subsidies under
15 subsection (a):

16 (1) The parent's or guardian's incapacity shall be
17 verified by a physician, psychologist, or other
18 appropriate licensed health care professional every
19 twelve months and state that the parent's or
20 guardian's disability substantially impairs their
21 ability to care for their dependent child without



1 assistance. The department may require periodic re-
2 verification to continue child care subsidies only
3 when there is documented evidence of a material change
4 in the parent's or guardian's condition;

5 (2) The parent or guardian shall meet all other financial
6 and situational eligibility criteria for child care
7 subsidies, except that the parent or guardian need not
8 be working or studying during the period of
9 incapacity; and

10 (3) Child care subsidies provided by the department
11 pursuant to this section may include funding for a
12 qualified in-home care provider or other licensed
13 provider to assist in caring for the child while the
14 parent or guardian is at home recuperating or managing
15 their condition, if appropriate.

16 (d) The department shall inform applicants and the public
17 about this section to ensure disabled caregivers are aware of
18 this support. All application materials for child care
19 subsidies shall include language stating that parents or
20 guardians who are unable to care for a child due to disability



1 may qualify for assistance, subject to verification, even if not
2 employed.

3 (e) The department shall:

4 (1) Revise program rules and eligibility criteria to
5 include an incapacitated parent or guardian as a
6 qualifying activity equivalent to work or training for
7 the purposes of child care subsidies under this
8 section; and

9 (2) Adopt rules pursuant to chapter 91 to implement this
10 section; provided that the rules shall include but not
11 be limited to definitions for incapacity, required
12 documentation, and duration of assistance."

13 SECTION 3. Chapter 346D, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 **"§346D- Family caregiver capacity and dependent care in**
17 **level of care determination.** (a) In any level of care or needs
18 assessment for medicaid home and community-based services, the
19 department of human services and its contracted health plans
20 shall identify any family or household members who might provide
21 unpaid care or support to a waiver program individual or



1 applicant. A potential caregiver's capacity, willingness, and
2 limitations shall be evaluated by the department of human
3 services; provided that no family member or household resident
4 shall be presumed able to provide any specific level of support
5 without an affirmative assessment of their physical and mental
6 ability to do so. The assessment shall include consideration of
7 the family member's or household resident's own health
8 conditions or disabilities.

9 (b) If a waiver program individual or applicant has
10 dependent family members in the same household, including minor
11 children, elderly dependents, or dependents with disabilities,
12 for whom the waiver program individual or applicant is the
13 primary caregiver, the assessment shall consider the waiver
14 program individual's or applicant's caregiving responsibilities
15 and the needs of the dependents. The department of human
16 services shall ensure that the service plan provides sufficient
17 support to maintain the health and safety of the waiver program
18 individual or applicant and the dependent, which may include
19 authorization of services or hours that indirectly assist with
20 the care of the dependent, to the extent allowed by law, when



1 the assistance is necessary to enable the waiver program
2 individual or applicant to remain in the community.

3 (c) The department of human services shall adopt rules
4 pursuant to chapter 91 to implement this section; provided that
5 the rules shall:

- 6 (1) Require documentation or professional verification of
7 a household caregiver's incapacity when the
8 caregiver's limitations are based on health or
9 disability and are material to the level of support
10 being assumed. Verification may include the
11 caregiver's self-report, employment or school
12 schedules, or other evidence, in addition to medical
13 or disability documentation where appropriate;
- 14 (2) Affirm that all natural supports shall be voluntary
15 and that an unwilling caregiver shall not be counted
16 as providing care, in accordance with federal law;
- 17 (3) Provide guidance on adjusting service hour allocations
18 when a waiver program individual who would normally
19 care for themselves and a dependent cannot do so
20 fully; and



1 (4) Prohibit the denial or reduction of services to a
2 waiver program individual or applicant on the sole
3 basis that another disabled or minor household member
4 could perform the needed care. Any consideration of
5 available help shall include a factual finding of the
6 helper's capability, actual availability in light of
7 employment, education, and other responsibilities, and
8 willingness to provide care on an ongoing basis.

9 (d) This section shall apply to all medicaid managed care
10 contracts and any fee-for-service programs providing long term
11 services and supports. The department shall amend managed care
12 contractual requirements as necessary to ensure compliance with
13 health plans. Failure to evaluate family caregiver capacity and
14 dependent care responsibilities in accordance with this section
15 shall be grounds for appeal of an adverse decision and any
16 individual adversely affected shall be informed of this right in
17 the determination letter."

18 SECTION 4. (a) By June 30, 2027, the department of human
19 services shall revise its health and functional assessment
20 protocols to implement the provisions of this Act.



1 (b) The revised health and functional assessment protocols
2 shall document the presence and status of any potentially at-
3 risk dependents or disabled individuals living within the same
4 household as the individual being evaluated. The documentation
5 shall confirm that evaluators have offered an accessible pathway
6 to assist dependents or household members in applying for
7 medicaid and related services independently. If the dependent
8 or disabled household member is not a medicaid recipient, the
9 evaluation shall document the reason, if known, and note any
10 disability accessible application assistance or guidance
11 offered.

12 (c) The department of human services shall collaborate
13 with managed care organizations to develop and make publicly
14 available a series of short and simple training videos
15 specifically designed for managed care organizations
16 coordinators or patient providers to accurately and sensitively
17 perform these evaluations. The department of human services and
18 its contracted health plans shall ensure that relevant staff,
19 including service coordinators and coordination management,
20 complete the training as part of their orientation and
21 continuing education.



1 (d) In the event that a medicaid recipient who is
2 receiving home and community-based services is no longer
3 residing in the home, any remaining dependent residing in the
4 that household shall be immediately considered as experiencing a
5 significant life change and an evaluation on that dependent
6 shall be performed within ten calendar days.

7 (e) The department of human services shall consult with
8 stakeholders, including health care providers, medicaid health
9 plans, disability rights organizations, and family caregivers,
10 when revising the health and functional assessment protocols to
11 ensure the revised protocols are practical and comprehensive.

12 SECTION 5. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2026-2027 for
15 the purposes of this Act.

16 The sum appropriated shall be expended by the department of
17 human services for the purposes of this Act.

18 SECTION 6. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 3000;
20 provided that section 3 shall take effect upon approval of the



- 1 Hawaii medicaid state plan by the Centers for Medicare and
- 2 Medicaid Services.



Report Title:

DHS; Medicaid; Child Care Subsidies; Caregivers; Caregiver Capacity; Eligibility; Home and Community-Based Services; Assessments; Appropriation

Description:

Extends child care subsidies to disabled parents or guardians, regardless of their employment status. Requires the Department of Human Services to evaluate caregiver capacity and dependent-care responsibilities when determining eligibility for Medicaid Home- and Community-Based Services. Requires the Department of Human Services to update its health and functional assessment protocols related to at-risk needs determinations. Appropriates funds. Effective 7/1/3000. (HD2)

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