

JAN 21 2026

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# 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 evaluation form and functional assessment  
15 protocols to ensure that families with disabled  
16 caregivers receive appropriate 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 seek and utilize federal funds to  
17           the maximum extent possible for the purposes of this section and  
18           may use state funds to supplement or meet any match or  
19           maintenance of effort required.

20     (e)   The department shall inform applicants and the public  
21           about this section to ensure disabled caregivers are aware of



1 this support. All application materials for child care  
2 subsidies shall include language stating that parents or  
3 guardians who are unable to care for a child due to disability  
4 may qualify for assistance, subject to verification, even if not  
5 employed.

6 (f) The department shall:

7 (1) Revise program rules and eligibility criteria to  
8 include an incapacitated parent or guardian as a  
9 qualifying activity equivalent to work or training for  
10 the purposes of child care subsidies under this  
11 section; and  
12 (2) Adopt rules pursuant to chapter 91 to implement this  
13 section.; provided that the rules shall include but  
14 not be limited to definitions for incapacity, required  
15 documentation, and duration of assistance."

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

19 "§346D- Family caregiver capacity and dependent care in  
20 level of care determination. (a) In any level of care or needs  
21 assessment for medicaid home and community-based services, the



1 department of human services and its contracted health plans  
2 shall identify any family or household members who might provide  
3 unpaid care or support to a waiver program individual or  
4 applicant. A potential caregiver's capacity, willingness, and  
5 limitations shall be evaluated by the department of human  
6 services; provided that no family member or household resident  
7 shall be presumed able to provide any specific level of support  
8 without an affirmative assessment of their physical and mental  
9 ability to do so. The assessment shall include consideration of  
10 the family member's or household resident's own health  
11 conditions or disabilities.

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



1 authorization of services or hours that indirectly assist with  
2 the care of the dependent, to the extent allowed by law, when  
3 the assistance is necessary to enable the waiver program  
4 individual or applicant to remain in the community.

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

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



1                   care for themselves and a dependent cannot do so  
2                   fully; and  
3                   (4) Prohibit the denial or reduction of services to a  
4                   waiver program individual or applicant on the sole  
5                   basis that another disabled or minor household member  
6                   could perform the needed care. Any consideration of  
7                   available help shall include a factual finding of the  
8                   helper's capability, actual availability in light of  
9                   employment, education, and other responsibilities, and  
10                   willingness to provide care on an ongoing basis.

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

20                   SECTION 4. (a) By June 30, 2027, the department of human  
21                   services shall revise its form DHS 1147 and health and



1 functional assessment protocols to implement the provisions of  
2 this Act.

3 (b) The revised form DHS 1147 shall, at a minimum:

4 (1) Add a question asking whether each identified  
5 caregiver or household support person has any health  
6 issues or disabilities that limit their ability to  
7 provide care;

8 (2) Contain a checklist or questionnaire that will enable  
9 an evaluator to determine the extent of support a  
10 caregiver or household support person can safely and  
11 realistically provide to a waiver program individual  
12 or applicant;

13 (3) Add a new section to record details about any  
14 dependents for whom the waiver program individual or  
15 applicant is responsible, including the dependent's  
16 age, any special needs, and the type of care or  
17 supervision the dependent requires relative to the  
18 waiver program individual's or applicant's abilities;

19 (4) Add a new section that allows the evaluator to  
20 recommend additional support services if caregiver  
21 capacity is limited or dependent care needs are high,



1 including but not limited to respite care, chore  
2 services, personal assistance, or child care services  
3 as part of the service plan for the family; and

4 (5) Amend the social situation section on the existing  
5 form DHS 1147 to more clearly indicate whether a  
6 caregiver requires assistance, including an area that  
7 allows the evaluator to delineate what assistance is  
8 needed for the caregiver to continue in their role.

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

20 (d) The department of human services shall collaborate  
21 with managed care organizations to develop and make publicly



1 available a series of short and simple training videos  
2 specifically designed for managed care organizations  
3 coordinators or patient providers to accurately and sensitively  
4 perform these evaluations. The department of human services and  
5 its contracted health plans shall ensure that relevant staff,  
6 including service coordinators and coordination management,  
7 complete the training as part of their orientation and  
8 continuing education.

9 (e) In the event that a medicaid recipient who is  
10 receiving home and community-based services is no longer  
11 residing in the home, any remaining dependent residing in the  
12 that household shall be immediately considered as experiencing a  
13 significant life change and an evaluation on that dependent  
14 shall be performed within ten calendar days.

15 (f) The department of human services shall consult with  
16 stakeholders, including health care providers, medicaid health  
17 plans, disability rights organizations, and family caregivers,  
18 when revising form DHS 1147 and the health and functional  
19 assessment protocols to ensure the revised form and protocols  
20 are practical and comprehensive.

21 (g) As used in this section:



1        "Form DHS 1147" means the State of Hawaii level of care and  
2        at risk evaluation form that the department of human services'  
3        med-QUEST division uses to evaluate an individual's required  
4        level of care for long-term care services and identify at-risk  
5        individuals.

6        "Service plan" has the same meaning as in section 346D-1,  
7        Hawaii Revised Statutes.

8        "Waiver program" has the same meaning as in section 346D-1,  
9        Hawaii Revised Statutes.

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

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

16        SECTION 6. New statutory material is underscored.

17        SECTION 7. This Act shall take effect on July 1, 2026;  
18        provided that section 3 shall take effect upon approval of the  
19        Hawaii medicaid state plan by the Centers for Medicare and  
20        Medicaid Services.

21



S.B. NO. 2291

INTRODUCED BY:

A large, handwritten signature in black ink, appearing to read "J. A. B.", is written over a horizontal line. The signature is fluid and cursive, with a large oval on the left and a more compact, stylized "J. A. B." on the right.

# S.B. NO. 2291

**Report Title:**

DHS; Medicaid; Child Care Subsidies; Caregivers; Caregiver Capacity; Eligibility; Home and Community-Based Services; Assessments; Evaluations; Long-Term Care Services; 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 evaluation form and functional assessment protocols related to level of care and at-risk needs determinations. Appropriates funds.

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

