THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 2291

JAN 21 2026

A BILL FOR AN ACT

RELATING TO FAMILY CAREGIVER SUPPORT.

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

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

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

but nevertheless require safe and reliable care for their children.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The department shall seek and utilize federal funds to the maximum extent possible for the purposes of this section and may use state funds to supplement or meet any match or maintenance of effort required.

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

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

(f) The department shall:

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

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

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

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

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

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

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

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

(1) Require documentation or professional verification of a household caregiver's incapacity when the caregiver's limitations are based on health or disability and are material to the level of support being assumed. Verification may include the caregiver's self-report, employment or school schedules, or other evidence, in addition to medical or disability documentation where appropriate;

(2) Affirm that all natural supports shall be voluntary and that an unwilling caregiver shall not be counted as providing care, in accordance with federal law;

(3) Provide guidance on adjusting service hour allocations when a waiver program individual who would normally

care for themselves and a dependent cannot do so fully; and

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

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

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

functional assessment protocols to implement the provisions of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

(g) As used in this section:

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

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

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

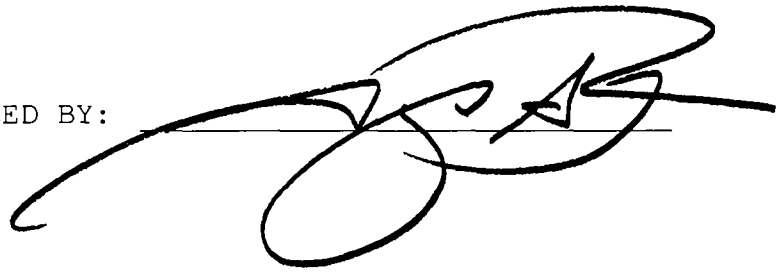
SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2026-2027 for the purposes of this Act.

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

SECTION 6. New statutory material is underscored.

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

S.B. NO. 2291

INTRODUCED BY: 

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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.