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# A BILL FOR AN ACT

RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES.

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

1           SECTION 1. The legislature finds that community care  
2 foster family homes provide a vital residential option for  
3 individuals who need twenty-four hour support in a home-like  
4 setting. Although existing law and administrative rules permit  
5 these homes to serve up to three residents, uncertainty remains  
6 about whether individuals who qualify for the medicaid  
7 intellectual and developmental disabilities home and  
8 community-based services waiver, also known as the HCBS I/DD  
9 waiver, may live in such homes without losing access to their  
10 waiver services.

11           The legislature further finds that individuals with  
12 intellectual and developmental disabilities who wish to reside  
13 in a community care foster family home must disenroll from the  
14 HCBS I/DD waiver and transition to the medicaid section 1115  
15 waiver. This requirement disrupts continuity of care and may  
16 result in the loss of essential, individualized services.

17 Clarifying that waiver status shall not disqualify individuals



1 from living in a community care foster family home will remove  
2 systemic barriers and uphold the right to choose where to live.

3 The purpose of this Act is to ensure that individuals with  
4 intellectual and developmental disabilities who meet an  
5 intermediate care facility or nursing facility level of care  
6 shall not be denied residency in a certified community care  
7 foster family home solely because of their disability or  
8 enrollment in a specific medicaid waiver program.

9 SECTION 2. Section 321-483, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§321-483 Community care foster family home, authority**  
12 **over and evaluation of.** (a) Any person in any household who  
13 wants to take in, for a fee, any adult who is at the nursing  
14 facility level of care and who is unrelated to anyone in the  
15 household, for twenty-four hour living accommodations, including  
16 personal care and homemaker services, may do so only after the  
17 household meets the required standards established for  
18 certification and obtains a certificate of approval from the  
19 department or its designee.

20 (b) The department shall adopt rules pursuant to chapter  
21 91 relating to:



- 1 (1) Standards of conditions and competence for the  
2 operation of community care foster family homes;
- 3 (2) Procedures for obtaining and renewing a certificate of  
4 approval from the department;
- 5 (3) Minimum grievance procedures for clients of community  
6 care foster family home services; and
- 7 (4) Requirements for primary and substitute caregivers  
8 caring for three clients in community care foster  
9 family homes including:
  - 10 (A) Mandating that primary and substitute caregivers  
11 be twenty-one years of age or older;
  - 12 (B) Mandating that primary and substitute caregivers  
13 complete a minimum of twelve hours of continuing  
14 education every twelve months or at least  
15 twenty-four hours of continuing education every  
16 twenty-four months;
  - 17 (C) Allowing the primary caregiver to be absent from  
18 the community care foster family home for no more  
19 than twenty-eight hours in a calendar week, not  
20 to exceed five hours per day; provided that the  
21 substitute caregiver is present in the community



1 care foster family home during the primary  
2 caregiver's absence;

3 (D) Where the primary caregiver is absent from the  
4 community care foster family home in excess of  
5 the hours as prescribed in subparagraph (C),  
6 mandating that the substitute caregiver be a  
7 certified nurse aide; and

8 (E) Mandating that the substitute caregiver have, at  
9 a minimum, one year prior work experience as a  
10 caregiver in a community residential setting or  
11 in a medical facility.

12 (c) As a condition for obtaining a certificate of  
13 approval, community care foster family homes shall comply with  
14 rules adopted under subsection (b) and satisfy the background  
15 check requirements under section 321-15.2. The department or  
16 its designee may deny a certificate of approval if:

17 (1) An operator or other adult residing in the community  
18 care foster family home, except for adults receiving  
19 care, has been convicted of a crime other than a minor  
20 traffic violation involving a fine of \$50 or less;



- 1           (2) The department or its designee finds that the  
2           background check record of an operator or other adult  
3           residing in the home, except for adults receiving  
4           care, poses a risk to the health, safety, or  
5           well-being of adults in care; or
- 6           (3) An operator or other adult residing in the community  
7           care foster family home, except for adults receiving  
8           care, is a perpetrator of abuse as defined in section  
9           346-222.
- 10          (d) Upon approval of a community care foster family home,  
11          the department or its designee shall issue a certificate of  
12          approval that shall continue in force for one year, or for two  
13          years if a community care foster family home has been certified  
14          for at least one year and is in good standing pursuant to  
15          standards adopted by the department, unless sooner suspended or  
16          revoked for cause. The department or its designee shall renew  
17          the certificate of approval only if, after an annual or biennial  
18          evaluation, the home continues to meet the standards required  
19          for certification.
- 20          (e) Any community care foster family home shall be subject  
21          to investigation by the department or its designee at any time



1 and in the manner, place, and form as provided in procedures to  
2 be established by the department.

3 (f) The department or its designee may suspend or revoke a  
4 certificate of approval if the department or its designee deems  
5 that a community care foster family home is unwilling or unable  
6 to comply with the rules adopted under subsection (b); provided  
7 that:

8 (1) The suspension or revocation shall be immediate when  
9 conditions exist that constitute an imminent danger to  
10 the life, health, or safety of adults receiving care;

11 (2) A community care foster family home whose certificate  
12 of approval has been suspended or revoked shall  
13 immediately notify its clients and their case  
14 managers;

15 (3) A community care foster family home whose certificate  
16 of approval has been suspended or revoked may appeal  
17 to the department through its established process, but  
18 the appeal shall not stay the suspension or  
19 revocation;

20 (4) A suspended or revoked certificate of approval may be  
21 reinstated if the department or its designee deems



1 that the home is willing and able to comply with the  
2 rules adopted under subsection (b); and

3 (5) A revoked certificate of approval shall be restored  
4 only after a new application for a certificate of  
5 approval is submitted to the department or its  
6 designee and approved.

7 (g) Any community care foster family home shall be subject  
8 to monitoring and evaluation by the department or its designee  
9 for certification compliance and quality assurance on an annual  
10 or biennial basis.

11 (h) No person who meets an intermediate care facility or  
12 nursing facility level of care and is eligible for services  
13 under either the 1915(c) medicaid waiver or medicaid section  
14 1115 demonstration waiver shall be denied residency in a  
15 certified community care foster family home solely based on the  
16 person's disability status or waiver enrollment. A certified  
17 caregiver may serve as a provider under the 1915(c) and 1115  
18 medicaid waivers.

19 (i) The department shall provide technical assistance and  
20 training to support the appropriate placement of individuals  
21 with intellectual and developmental disabilities in community



1 care foster family homes, in collaboration with case management  
2 agencies, licensing entities, and medicaid programs; provided  
3 that the department shall consult with the med-QUEST division of  
4 the department of human services to align waiver language,  
5 provider qualifications, and payment models to facilitate this  
6 inclusive housing option; provided further that the department  
7 shall issue guidance to case management agencies and community  
8 care foster family home operators to ensure compliance."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 3000;  
11 provided that section 2 shall take effect upon the revision of  
12 community care foster family home standards by the department of  
13 health and the approval of 1915(c) medicaid waiver updates by  
14 the Centers for Medicare and Medicaid Services.



**Report Title:**

Community Care Foster Family Homes; Individuals with Intellectual and Developmental Disabilities; Medicaid; Waiver Status; Housing Access

**Description:**

Clarifies that individuals with intellectual and developmental disabilities who meet an intermediate care facility or nursing facility level of care shall not be denied residency in a certified community care foster family home solely because of their disability or enrollment in a specific Medicaid waiver program. Effective 7/1/3000. (HD1)

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