

ACT 209

S.B. NO. 1450

A Bill for an Act Relating to Personal Care Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to amend temporarily the law relating to provision of services to include recipients who are not eligible for the medical assistance program and to allow for more recipient control in the direction and training of personal care service providers.

Personal care services are currently available only to elderly and disabled persons eligible for medical assistance which is jointly funded by federal and state moneys. There is a gap group which is not eligible for medical assistance and which requires personal care services in order to function independently and remain in the community and not in the hospital or nursing facilities. It currently costs about two to three times more to maintain a person in an intermediate care facility in Hawaii than in the community. If only two per cent of future medical assistance recipients could be diverted from placement in nursing homes, the annual cost savings could fund a personal care services program for about four hundred individuals, on a sliding scale fee basis. Extension of a state funded component for personal care services to individuals in the gap group would divert a number of individuals from future institutionalization at greater public expense.

The present personal care services program also prevents full participation by a capable recipient in the training, direction, and management of the individual's personal care services in the least restrictive environment. Personal care services need to be more responsive to the recipient needs and be more consumer controlled and directed. Not all elderly and disabled persons receiving personal care services require intensive case management and medical supervision in the provision of

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personal care services. Differential levels of case management can be incorporated into the program. This would enable those elderly and disabled persons with the functional and intellectual capacity to manage and train their personal care service providers to do so.

SECTION 2. Section 346-64, Hawaii Revised Statutes, is amended to read as follows:

“§346-64 Personal care; payment for services. (a) The department shall provide, subject to legislative appropriations, personal care services to medical assistance recipients[:] and non-medicaid recipients:

- (1) Whose physical or mental disabilities are of a degree that would require placement in an intermediate care facility or skilled nursing facility if the personal care services were not provided; and
- (2) Who have no responsible relative or friend willing to volunteer assistance in the bathing, dressing, and feeding of the recipient, the performance of toilet and personal hygiene functions by the recipient, and other household tasks.

[Personal care services provided under this section shall be funded under the medical assistance program.] The department shall provide personal care services in compliance with state and federal laws and rules and shall request federal financial participation for services provided to medicaid-eligible recipients.

(b) As used in this section:

“Non-medicaid recipient” means an individual whose income is at least two hundred per cent of and not more than four hundred per cent of the current medical assistance community income limit; and whose personal reserve is at least one hundred per cent of and not more than four hundred per cent of the current medical assistance limit for personal reserve retention.

“Personal care services” mean services to assist in bathing, dressing, and feeding; performance of toilet and personal hygiene functions; assistance with medications which are ordinarily self-administered; assistance with mobility and transfer activities; and other household tasks which are related to a medical need.

(c) The payment for personal care services for a recipient during a month shall not exceed sixty-five per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility[.] or skilled nursing facility. A recipient who is not eligible for medical assistance may receive personal care services and shall make payment for these services based on a sliding fee system based on income, assets, and family size as established by the department. The department or its authorized agent shall make a comprehensive assessment of and provide a written plan of care to a recipient receiving personal care services. The plan of care shall be, to the extent possible, developed to reflect the desires of the recipient, or the recipient’s legal representative, and may provide for differential levels of case management.

(d) The department shall compute the average monthly medical assistance payment for a recipient in an intermediate care facility or skilled nursing facility by rule in accordance with chapter 91.

(e) Nothing in this section shall be construed as limiting the department from providing other services in programs under its jurisdiction to recipients under this section who may be eligible for such services.

(f) The department may adopt rules in accordance with chapter 91 for the purpose of this section.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$450,000, or so much thereof as may be necessary for fiscal

year 1988-1989, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of human services within funding limitations and considering individual circumstances and need; provided that funds are used for recipients who are not eligible for medical assistance and shall be expended to provide services to those who are not currently receiving state funded personal care services. These funds may be distributed to reflect departmental priorities after the individual's personal circumstances and needs have been considered.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988; provided that on June 30, 1991, section 2 shall be repealed, and section 346-64, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved June 7, 1988.)