

ACT 322

S.B. NO. 2617

A Bill for an Act Relating to Protection Against Spousal Impoverishment.

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

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

“§346-29 Applications for public assistance; manner, form, conditions. Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant’s behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, except that any inmate of a public institution who is otherwise eligible for medical assistance and who has been determined by the medical director of the institution as having a major illness or medical condition requiring the provision of medical care outside of the institution may receive assistance under this chapter. An inmate of an institution mentioned in this section may apply for assistance to begin after the inmate’s discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total of \$1,000 in assets in determining the needs of persons for financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision shall not apply to persons eligible for Federal Supplemental Security Income benefits. In determining the needs of such persons, the department shall apply

- the resource retention requirements under the Federal Supplemental Security Income Program.
- (4) Shall apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a single person for medical assistance only.
 - (5) Shall apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.
 - (6) Shall disregard amounts of emergency assistance granted under section 346-65.
 - (7) Shall not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the workfare program of part IX, other than wages. Wages earned by a participant while participating in the workfare program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law.
 - (8) Shall not consider as income or resources payment made to eligible individuals, eligible surviving spouses, surviving children or surviving parents as specified under Title I of the Civil Liberties Act of 1988, Public Law 100-383, which made restitution to individuals of Japanese ancestry who were interned during World War II.
 - (9) Shall allow the community spouse of an individual residing in a medical institution to maintain countable resources to the maximum allowed by federal statutes or regulations with provisions for increases, as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree, without jeopardizing the eligibility of the institutionalized spouse for medical assistance.
 - (10) Shall allow an individual residing in a medical institution to contribute toward the support of the individual's community spouse, thereby enabling the community spouse to maintain the monthly maximum income allowed by federal statutes or regulations, with provisions for increases as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining assets and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as assets.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on October 1, 1990.

(Approved July 9, 1990.)