

ACT 166

S.B. NO. 1683

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

“§346-53 Determination of amount of assistance. (a) This subsection does not apply to general assistance. The standard of need for families of given sizes shall equal the poverty level established by the federal government in 1993, pro-rated over a twelve-month period.

[(b)] The assistance allowance provided shall be based on a percentage of the standard of need. The assistance allowance shall be set at sixty-two and one-half per cent of the standard of need. The standard of need shall be determined by dividing the 1993 federal poverty level by twelve and rounding down the quotient. The remaining quotient shall be multiplied by sixty-two and one-half per cent and the final product shall be rounded down to determine the assistance allowance.

(b) The director shall determine the allowance for general assistance based upon the total amount appropriated for general assistance, among other relevant factors.

(c) The director, pursuant to chapter 91, shall determine the rate of payment for the different levels of domiciliary care provided to recipients eligible either for Federal Supplemental Security Income, or public assistance in accordance with state standards, or both. The director shall provide for level of care increases effective July 1, 1989, as follows:

- (1) For those adult residential care homes classified as facility type I: not less than \$70 for level of care (LOC) I; not less than \$105 for LOC II; and not less than \$145 for LOC III; and
- (2) For those adult residential care homes classified as facility type II: not less than \$124 for LOC I; not less than \$105 for LOC II; and not less than \$145 for LOC III.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient’s condition so requires, or by rule of the department in accordance with this subsection; provided that:

- (1) Notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; and
- (2) If the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility.

The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

(d) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental deposit, utility deposit, or both, may be granted.

(e) Any recipient may petition the department for additional assistance when the recipient's need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided that the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance.

(f) The department shall include protective child care payment as a special needs item in the financial assistance standard for cases of child neglect or abuse requiring placement of a child in child care. The referral for protective child care payment shall be from the department's child welfare program and the rate of payment shall be set by the department.

(g) Notwithstanding any other law to the contrary, the director, subject to the availability of funds, shall develop and implement rules adopted pursuant to chapter 91 that allow the department to subtract income from the standard of need. The department may ratably reduce the difference between countable income and the standard of need to determine the assistance allowance.

(h) The director shall adopt rules pursuant to chapter 91 to implement this section."

SECTION 2. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

"§346-71 General assistance. (a) The department of human services [shall] is authorized to administer and provide public assistance to eligible persons who are disabled, [or are at least fifty-five years of age], or whose primary diagnosis is substance abuse, or have dependent children in the home not otherwise provided for under this chapter[.] and who are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons have first been determined ineligible for a comparable federally funded financial assistance program, are bona fide residents of this State, and have furnished to the department a social security account number for each member of the assistance unit or verification that an application was made with the Social Security Administration for a social security account number for each member of the assistance unit. In family groups in

which there are children, income and resources of both parents, natural or adoptive, shall be considered available for each other and the support of their children.

Persons who meet the categorical criteria for eligibility, but fail to satisfy income and resource criteria adopted by the department for eligibility under the comparable federally funded financial assistance program shall not be eligible for general assistance. The failure of any adult member of the assistance unit to comply with the requirements or conditions of general assistance shall exclude the entire assistance unit from receiving financial assistance. However, when the adult member is disqualified for not meeting the work requirement, the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the work requirement occurred. "Assistance unit" as the term is used herein means persons whose needs, income, and assets are considered in the financial assistance payment and their dependents.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of human services shall consider, but is not limited to considering, the following factors: enrollment and receipt of welfare benefits from another jurisdiction; physical presence in the State; maintenance of a place of residence in the State; the availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation; qualification as to residence for purposes of voting in the State; change in vehicle operation license; vehicle registration; enrollment of children in local schools; bank accounts in this State or any other jurisdiction.

(b) A disabled person between eighteen and sixty-five years of age shall be eligible for general assistance[,] for not more than one year, if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules [of the department;] adopted under subsection (g);
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified physical or mental impairment. A determination and certification of physical impairment shall only be made by a licensed physician. A determination and certification of mental impairment shall be made by a licensed physician whose specialty is in psychiatry or by a licensed psychologist. The department may require that such determination and certification be by a psychiatrist or a psychologist designated and paid by the department. [The department shall accept applications from psychiatrists and psychologists to conduct the examination for mental impairment. Psychiatrists and psychologists shall be assigned cases on a rotating basis.]
- (B) When a determination of mental impairment is made, the person shall [enter into out-patient treatment with the psychiatrist, psychologist, or mental health clinic of the person's choice. The professional who made the determination of mental impairment shall be ineligible to provide the treatment or care. In exceptional situations where professionals are in short supply, such as in rural areas, the professional shall be allowed to determine, certify, and provide on-going treatment or care.] accept and pursue medical treatment. The out-patient treatment shall include a medical evaluation to eliminate the possibility that the mental impairment is due to a physical illness.

(C) When a determination of physical impairment is made, the person shall accept and pursue medical treatment.

[(C)] (D) Any person, to continue to be certified as mentally or physically impaired, shall be reevaluated annually as provided by this section and more frequently as required by the department. "Substantial" as the term is used herein means at least thirty hours of work per week. "Disabled" as the term is used herein means disability which extends for a period of over thirty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.

The one year eligibility under this subsection may be extended by the department pending determination of eligibility for the Federal Supplemental Security Income Program or its successor agency.

(c) A person with dependent children in the home shall be eligible for general assistance if the person:

- (1) Is determined to be eligible in accordance with rules adopted under subsection (g);
- [(1)] (2) Is unemployed for reasons other than voluntary separation without good cause or for misconduct within twelve months prior to application; and
- [(2)] (3) Is actively and diligently seeking gainful employment; and
- [(3)] (4) Has not refused to accept employment when offered; and
- [(4)] (5) Has registered and is available for work as required by section 383-29; and
- [(5)] (6) (A) Has exhausted all of the person's benefits under chapter 383; provided that if the benefits of any person under chapter 383 be less than those for which the person would be eligible under this section, the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or
- [(6)] (B) Is employed but without sufficient income or other resources to provide sufficient support to maintain the person or those dependent upon the person consistent with the standards of this chapter.

"Children" as used in this section means persons who:

- (1) Are ineligible for and are unable to obtain aid under a federal assistance program; and
- (2) Are in need, and do not have sufficient income or other resources to provide health care and support to maintain a standard consistent with this chapter; and
- (3) Have not attained the age of eighteen years; provided that a child between the ages of eighteen and nineteen years shall be eligible for assistance under this section, if the child is a full-time student enrolled in a public or private secondary school, or equivalent level of vocational or technical school; and further provided that the child is expect-

ted to complete the program of the secondary school or vocational or technical school before reaching age nineteen; and

- (4) Are living in a home with their father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, niece, or hanai parents in a place of residence maintained by such relative as the relative's own home.

A child for the purposes of this section does not include an unborn child or fetus.

[(d) A person who is at least fifty-five years of age shall be eligible for general assistance if the person:

- (1) Is unemployed for reasons other than voluntary separation without good cause or for misconduct within twelve months prior to application; and
- (2) Is actively and diligently seeking gainful employment; and
- (3) Has not refused to accept employment when offered; and
- (4) Has registered and is available for work as required by section 383-29; and
- (5) Has exhausted all of the person's benefits under chapter 383; provided should the benefits of any person under chapter 383 be less than those for which the person would otherwise be eligible hereunder, the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or
- (6) Is employed but without sufficient income or other resources to provide sufficient support to maintain the assistance unit consistent with the standards of this chapter.]

(d) A person between the ages of eighteen and sixty-five years of age whose primary diagnosis is substance abuse shall be eligible for assistance for a period not to exceed six months if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection (g);
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified diagnosis of substance abuse. A determination of substance abuse shall only be made by a licensed physician or a licensed psychologist. The department may require that such determination and certification be by a physician or a psychologist designated and paid by the department;
 (B) When a determination of substance abuse is made, the person shall accept and pursue medical treatment;
 (C) Any person, to continue to be certified as a substance abuser, shall be reevaluated as provided by the department.

"Substantial" as the term is used in this subsection means at least thirty hours of work per week.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as

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described in section 346-31, and in public employment projects as described in section 346-102.

(e) The department shall further require in addition to the conditions and requirements stated in subsections (c) and (d), that persons who are physically fit, able to work, and employable shall as a condition to receiving general assistance, register for work on public work projects and accept an assignment to work under section 346-31 or accept such employment as may be offered to them by the department under section 346-102 or by an employer. The term "public work projects" includes any kind of labor under the department of accounting and general services of the State or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section.

(f) Applicants and recipients shall be required to satisfy all applicable provisions of this section. Recipients disqualified for failure to comply with any of the requirements under the provisions of this section shall be excluded from general assistance for a period not to exceed twelve months.

(g) [The] Within the limitations of this section, the department shall by rules adopted pursuant to chapter 91, [establish criteria and standards for the foregoing conditions and requirements.] determine:

- (1) The allowance for general assistance based upon the total amount appropriated for general assistance;
- (2) A method for determining assistance amounts; and
- (3) Other necessary provisions to implement general assistance."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)