

ACT 294

H.B. NO. 3028

A Bill for an Act Relating to Long-Term Care.

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

SECTION 1. Chapter 346D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346D- Medicaid reimbursement equity.** Not later than June 30, 2003, there shall be no distinction between hospital-based and nonhospital-based reimbursement rates for institutionalized long-term care under medicaid. Reimbursement for institutionalized intermediate care facilities and institutionalized skilled nursing facilities shall be based solely on the level of care rather than the location.”

SECTION 2. Section 346D-1, Hawaii Revised Statutes, is amended to read as follows:

**“§346D-1 Definitions.** For the purpose of this chapter:

[“Certified home health agency” means an agency licensed by the State to provide health services, such as skilled nursing, home health services, and physical therapy in the client’s home.

“Comprehensive assessment” means the evaluation of the client’s medical, social, and environmental needs.]

“Comprehensive home and community-based services” means the provision of a broad range of services [which will ensure the client’s safety and well-being at home over], not otherwise available under the approved medicaid state plan, which the waiver program individual needs in order to avoid institutionalization for an indefinite period of time.

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

“Home care agency” means an agency licensed by the State to do business in Hawaii that provides home care services such as personal care, personal assistance, chore, homemaker, and nursing services in the individual’s home.

[“Plan of care” means a written plan, including goals, objectives, and methodology, designed to meet the service requirements of the client, caregiver, or both, as approved by the physician.

“Safety and well-being” means an assessment of the client’s home environment and the determination that it is safe and that the care requirements of the client have been determined and can be provided for in the home setting.]

“Residential alternative” means a community-based residence authorized to admit waiver program individuals, such as an adult foster home, adult residential care home, domiciliary care home, or foster home for the developmentally disabled.

“Service plan” means a written plan that specifies the services, along with their frequency and their provider, necessary to maintain the individual in the community as a cost-effective alternative to institutionalization.

[“Waiver”] “Waiver program” means [an intentional relinquishment of certain rights or obligations.] the medicaid home and community-based services programs under 42 U.S.C. section 1396n.”

SECTION 3. Section 346D-2, Hawaii Revised Statutes, is amended to read as follows:

**“§346D-2 Establishment of [a community long-term care/nursing home without walls program.] medicaid home and community-based waiver programs.** (a) [A community long-term care/nursing home without walls program] Waiver programs shall be established [in] and administered by the department of human services to provide comprehensive home and community-based services for [acute or] aged, chronically ill [and], disabled [clients], developmentally disabled, and mentally retarded individuals, who are certified as requiring acute, skilled nursing, [or] intermediate [level] care[.] facility, or intermediate care facility for the mentally retarded level of care.

(b) [The provision of] These services shall be [statewide.] furnished to individuals in the geographic areas of the State identified in the approved waiver program applications.

(c) [A ceiling shall be placed on the nursing home without walls program expenditures, limiting total expenditures to not more than the amount authorized by] Medicaid home and community-based waiver program expenditures shall not exceed the amount authorized by the federal Health Care Financing Administration.

[(d) If clients from the nursing home without walls program do not utilize the entire funds available for the clients’ care, “paper credits” shall be accrued on the clients’ behalf to be utilized during a period of higher service requirements.]]”

SECTION 4. Section 346D-3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§346D-3]] Determination of [client] eligibility for participation in [the] a waiver program.** (a) [Clients shall meet the following eligibility criteria:

- (1) They shall be certified by the department of human services’ physicians to be in need of acute, skilled nursing, or intermediate level care;
- (2) They shall be determined by the department of human services to be eligible for medicaid assistance; and
- (3) They shall be deemed by their personal physician as able to be cared for at home with the provision of appropriate services in the home.

Nonmedicaid recipients will be eligible to receive the same array of comprehensive home services as nursing home without walls clients who are eligible for medicaid.] To qualify for participation in a waiver program, individuals shall:

- (1) Be determined by the department of human services to be eligible for federally-funded medicaid assistance;
- (2) Be certified by the department of human services, through the preadmission screening process, to be in need of acute, skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded level of care; and
- (3) Choose to remain in the community with the provision of home and community-based waiver program services as an alternative to institutionalization.

(b) [Clients] Individuals approved for [the] a waiver program shall [receive a:] have the following:

- (1) Comprehensive assessment of their [medical,] health, functional, social, and environmental needs;
- (2) Written [plan of care listing the types, frequency, and duration of all services which are necessary to maintain the client at home;] service plan that addresses the necessary safeguards to protect the health and welfare of the individual, and reflects the individual's freedom of choice of providers and services;
- (3) Budget based on the services defined in the [plan of care;] service plan; and
- (4) Periodic review of their health, functional, and financial status to [assure] ensure continued [medical and financial] eligibility for [service.] waiver program services."

SECTION 5. Section 346D-4, Hawaii Revised Statutes, is amended to read as follows:

**"[§346D-4] Provision of services.** (a) Services [which shall assure the safety and well-being of the client] that maximize the individual's independence shall be provided in the [client's] individual's home [or in], the home of a responsible relative or other adult[.], or a residential alternative setting.

(b) The program shall provide the services in the most economic manner feasible which is compatible with preserving quality of care through:

- (1) Informal care providers, such as family members, friends, or neighbors who regularly provide specific services without remuneration and not as a part of any organized volunteer activity;
- (2) Individual providers hired and directed by the waiver program individual to provide specific approved services;
- [(2)] (3) Contracts with agency providers, such as [certified] home [health] care agencies and public or private health and social service [agencies;] organizations;
- [(3)] (4) Contracts with individual providers, such as [physicians,] counselors, nurses, [and] therapists, and residential alternative program operators who [privately enter into a contract to] provide services for the waiver program; [or] and
- [(4)] (5) Program personnel, such as social workers and nurses who are hired by the waiver program to provide specific services."

SECTION 6. Section 346D-5, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.