

ACT 208

H.B. NO. 2022

A Bill for an Act Relating to General Assistance.

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

SECTION 1. Section 346-71, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person between eighteen and sixty-five years of age with a disability shall be eligible for general assistance to households without minor dependents if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection (e);
- (2) Is unable to meet the disability requirements established by the federal Supplemental Security Income Program or its successor agency; and
- (3) Is unable to engage in any substantial gainful employment because of a determined and certified physical [or], mental, or combination of physical and mental disability. Upon application, the department shall

ask the person whether the person has a physical or mental disability, or both. If the person claims to have both a physical and mental disability, the department shall ask the person to choose whether the person's primary disability is physical or mental. Determination and certification of [physical and mental] the disability shall be as follows:

- (A) A determination and certification of physical disability shall ~~[only]~~ be made by a board of licensed physicians designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;
- (B) A determination and certification of mental disability shall be made by a board of licensed psychologists or licensed physicians whose specialty is in psychiatry. This board shall ~~[also]~~ be designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;
- (C) If a determination and certification is made that the applicant does not have a physical, mental, or combination of a physical and mental disability, prior to a denial of any claim, the department shall provide the applicant with an initial denial notice that gives the applicant at least ten calendar days to provide additional medical evidence. The notice shall refer the applicant to free legal services for assistance and permit the applicant to request extensions of time, if necessary;
- ~~[(C)]~~ (D) If a determination of physical, mental, or combination of a physical and mental disability is made, the person shall accept and pursue appropriate medical treatment from a provider of the person's choice[;]. The department shall promptly provide the person with a complete and legible copy of the recommended appropriate treatment;
- ~~[(D)]~~ If a determination of physical disability is made, the person shall accept and pursue appropriate medical treatment from a provider of the person's choice[;]
- (E) Any person, to continue to be certified as mentally disabled, ~~[or]~~ physically disabled, or both mentally and physically disabled, shall be reevaluated annually, as provided by this section, and more frequently, as required by the department; and
- (F) Failure to pursue appropriate medical treatment shall result in a loss of eligibility, unless the failure is due to good cause. Good cause shall include but not be limited to:
 - (i) Treatment is unavailable;
 - (ii) Personal emergencies; and
 - (iii) Circumstances ~~[which]~~ that threaten the safety of the patient.

The department shall adopt rules in accordance with chapter 91 to define "good cause", as used in ~~[this]~~ subparagraph~~[;]~~ (F), in order to determine when treatment is unavailable, what constitutes a personal emergency, what circumstances may threaten the safety of a patient, and other factors that may constitute good cause.

As used in this subsection:

"Substantial gainful employment" means at least thirty hours of work per week.

"With a disability" or "having a disability" means a disability that extends for a period of over sixty 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 to households without minor dependents under this section. An assistance unit shall be determined ineligible for general assistance to households without minor dependents 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^[7] and participate in public work projects, as described in section 346-31, and in public employment projects, as described in section 346-102.”

SECTION 2. The department of human services shall report on the progress of this Act to the legislature no later than twenty days prior to the convening of each regular session beginning with the 2005 legislature and ending with the 2007 legislature.

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

SECTION 4. This Act shall take effect on July 1, 2004.

(Approved July 12, 2004.)