

ACT 102

H.B. NO. 607

A Bill for an Act Relating to Kupuna Care.

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

SECTION 1. The legislature finds that the State must find new ways to accommodate a broader range of home- and community-based long-term care options for Hawaii's rapidly growing elderly population. According to 2015 population data from the department of business, economic development, and tourism, there are 236,914 persons, or 16.5 per cent of the population, 65 years and older in Hawaii. The percentage of this population is projected to rise to 19.4 per cent by 2020 and 23 per cent by 2030.

The legislature further finds that family caregivers play a major role in the State's health care system by providing long-term care to the elderly. According to AARP, there are 154,000 unpaid family caregivers in Hawaii, with the average caregiver being a 62-year-old married woman who cares for an elderly parent or husband while still working. Caregiving for an elderly family member takes a toll on caregivers, and care recipients often worry they will become a burden on family members. Numerous studies show that caregivers report higher levels of psychological distress, and caring for elderly family members over extended periods of time without compensation can lead to chronic stress. In some instances, adult children who work on the mainland may have to return to Hawaii to live and abandon their careers in the process, to care for their parents at home because it is the only alternative to expensive institutional care. If children already live in Hawaii, they often have to quit their jobs to stay home to care for aging parents, which may result in financial disaster for the family and a loss of tax revenue for the State. While caregivers play a critical role in helping others, it is imperative that caregivers take care of themselves and have the necessary support and services to sustain their own health as well as the health of the family member for whom they are caring.

The purpose of this Act is to:

- (1) Authorize the executive office on aging to establish the kupuna caregivers program to assist community members in obtaining care for elders while remaining in the workforce;

- (2) Clarify which kupuna services and supports under the kupuna care program shall be provided by area agencies within the kupuna care program; and
- (3) Appropriate funds for the establishment and implementation of the kupuna caregivers program.

SECTION 2. Chapter 349, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

“§349-A Definitions. Unless the context clearly requires a different meaning, when used in this part:

“Activities of daily living” means the following activities that individuals perform as a part of daily living: eating, dressing, bathing, toileting, transferring in and out of a bed or chair, and walking.

“Adult day care” means personal care for dependent elders in a supervised, protective, and congregate setting during some portion of a day. Services offered in conjunction with adult day care include social and recreational activities, training, and counseling.

“Aging and disability resource centers” means an entity established by the State as part of the state system of long-term care, serving as a highly visible and trusted source where people of all incomes and ages can get information on the full range of long-term support options, and a single point of entry for access to public long-term support programs and benefits.

“Area agency on aging” means an agency designated by the executive office on aging to develop and administer the area plan for a comprehensive and coordinated system of aging services.

“Assisted transportation” means assistance and transportation, including escort, for a person who has cognitive or physical difficulties using regular vehicular transportation.

“Attendant care” means stand-by assistance, supervision, or cues, including verbal prompts for medication, bathing, eating, grooming, and dressing, and may include other activities to help maintain the independence of an individual at home. “Attendant care” does not include physical contact in support, including but not limited to weight-bearing assistance with transfers, washing, bathing, and dressing.

“Care coordination” means a person-centered, assessment-based, interdisciplinary approach to integrating health care and social support services that are tailored to an individual’s needs and goals across all care services.

“Care recipient” means an individual who:

- (1) Is a citizen of the United States or a qualified alien; provided that for the purposes of this paragraph, “qualified alien” means a lawfully admitted permanent resident under the Immigration and Nationality Act;
- (2) Is sixty years of age or older;
- (3) Is not covered by any comparable government or private home- and community-based care service, except or excluding kupuna care services;
- (4) Does not reside in a long-term care facility, such as an intermediate care facility, assisted living facility, skilled nursing facility, hospital, foster family home, community care foster family home, adult residential care home, or expanded adult residential care home; and
- (5) Has impairments of at least:
 - (A) Two activities of daily living;

- (B) Two instrumental activities of daily living;
- (C) One activity of daily living and one instrumental activity of daily living; or
- (D) Substantive cognitive impairment requiring substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or another person.

“Case management” means assistance either in the form of access or care coordination in circumstances where an individual is experiencing diminished functioning capacities, personal conditions, or other characteristics that require the provision of services by formal service providers or family caregivers. Activities of case management may include assessing needs, developing care plans, authorizing and coordinating services among providers, and providing follow-up and reassessment, as required.

“Chore” means assistance such as heavy housework, yard work, or sidewalk maintenance for a person.

“Coach” means an individual who:

- (1) Helps the care recipient understand the program of participant-directed services and support;
- (2) Develops and implements a spending plan to describe how the care recipient will spend the care recipient’s budget; and
- (3) Evaluates whether the participant-directed service and support program is meeting the care recipient’s needs.

“Family caregivers” means a spouse, adult child, other relative, partner, or friend who has a personal relationship with, and provides a broad range of unpaid assistance for an older adult with a chronic or disabling condition.

“Home-delivered meals” means a meal provided to a care recipient in the care recipient’s place of residence; provided that the meal is served in a program administered by the executive office on aging or an area agency on aging and meets all of the requirements of the Older Americans Act of 1965, as amended, and all state and local laws.

“Homemaker services” means assistance with preparing meals, shopping for personal items, managing money, using the telephone, or performing light housework.

“Instrumental activities of daily living” means the following instrumental activities that individuals perform as a part of daily living: preparing meals, shopping for personal items, medication management, managing money, using the telephone, performing light housework, performing heavy housework, and making use of available transportation.

“Kupuna care core services” means services consisting of:

- (1) Adult day care;
- (2) Attendant care;
- (3) Case management;
- (4) Chores;
- (5) Homemaker services;
- (6) Home-delivered meals;
- (7) Personal care;
- (8) Transportation; or
- (9) Assisted transportation.

“Personal care” means personal assistance, stand-by assistance, supervision, or cues.

“Person-centered planning” means a process, directed by the care recipient, intended to identify the strengths, capacities, preferences, needs, and desired outcomes of the care recipient.

“Person-centered support plan” or “support plan” means a plan developed by a care recipient with the assistance of a coach that allows the care recipient to establish the goals, skills, and knowledge necessary to work toward the desired outcomes and lays out practical steps toward the achievement of the goals; provided that family members and friends may provide assistance in developing a care recipient’s plan if the care recipient chooses to include them.

“Qualified caregiver” means an individual who meets the following requirements:

- (1) Provides care for a care recipient; and
- (2) Is employed at least thirty hours per week by one or more employers.

“Respite care” means services that offer temporary, substitute supports, or living arrangements for care recipients to provide a brief period of rest to qualified caregivers. “Respite care” includes:

- (1) In-home respite (personal care, homemaker services, and other in-home respite);
- (2) Respite provided by attendance of the care recipient at a nonresidential program;
- (3) Institutional respite provided by placing the care recipient in an institutional setting such as a nursing home for a short period of time as a respite service to the caregiver; and
- (4) Any combination of services to assist the caregiver as deemed appropriate by the area agency on aging.

“Service provider” means an entity that has all required licenses or certificates, and is registered as a business entity in the State.

“Transportation” means transportation from one location to another with a vehicle and does not include any other activity.

§349-B Kupuna caregivers program. (a) The executive office on aging may establish the kupuna caregivers program. The program shall provide assistance to a qualified caregiver who meets the requirements of this section.

(b) The program shall be coordinated and administered by the executive office on aging and implemented through the area agency on aging.

(c) The kupuna caregivers program shall award an allocation of funds, subject to the availability of funding and up to a maximum of \$70 per day, to cover costs for the following services that would otherwise be performed by the qualified caregiver for the care recipient:

- (1) Adult day care;
- (2) Assisted transportation;
- (3) Chores;
- (4) Home-delivered meals;
- (5) Homemaker services;
- (6) Personal care;
- (7) Respite care; or
- (8) Transportation;

provided that the allocated funds shall be issued directly to the service provider upon request and receipt of an invoice for services rendered.

(d) The director may adopt rules pursuant to chapter 91 necessary for the purposes of this section.”

SECTION 3. Chapter 349, Hawaii Revised Statutes, part II, is amended by amending its title to read as follows:

“PART II. KUPUNA CARE AND CAREGIVER SUPPORT SERVICES”

SECTION 4. Section 349-3.1, Hawaii Revised Statutes, shall be appropriately renumbered and included in part II of chapter 349, Hawaii Revised Statutes, and amended to read as follows:

~~“§349-3.1~~ **§349- Kupuna care program.** (a) The executive office on aging may establish the kupuna care program. The program shall provide ~~[affordable and quality home and community-based services.]~~ long-term services and supports to address the needs of Hawaii’s older adults and their desire to remain in their own homes and communities as they age.

(b) The program ~~[may be provided in every county as a function of the aging and disability resource centers.]~~ shall be coordinated and administered by the executive office on aging and implemented through the area agencies on aging.

(c) The kupuna care program shall be delivered through two distinct service options: traditional service delivery or participant-directed services and support, based on an individual support plan for each eligible care recipient; provided that:

(1) Traditional service delivery shall be a service provider organization or person who provides services to clients under a formal contractual arrangement with the executive office on aging or area agency on aging who shall deliver to each care recipient one or more kupuna care core services to address the care recipient’s specific needs that have been identified in the care recipient’s person-centered support plan; and

(2) Participant-directed services and support shall address the care recipient’s assessed needs that have been identified through the person-centered planning process and documented in the support plan. Participant-directed services and support shall consist of long-term services and supports that a care recipient uses to maintain independence in the community, in which the care recipient determines what mix of services and support will address the care recipient’s needs. The care recipient shall have decision-making authority over the care recipient’s budgeted dollar amount to purchase and manage the needed services and supports based upon the care recipient’s person-centered support plan. Participant-directed services and support shall provide the care recipient with a coach to assist the care recipient with using the services and support in a manner that best supports the care recipient’s ability to maintain independence and enable a quality living experience in the community.

(d) To qualify for the kupuna care program, an individual shall be a care recipient as defined in section 349-A.

(e) An area agency on aging, through the aging and disability resource center or other entity designated by the executive office on aging, shall conduct an intake and assessment of individuals seeking long-term services and supports to determine eligibility for the program. The intake and assessment shall include the following:

(1) A statewide uniform intake process developed with and adopted by the executive office on aging to preliminarily determine eligibility for publicly funded services and supports, including kupuna care services; and

(2) An assessment of the eligible care recipient utilizing a statewide, uniform comprehensive in-home assessment, if necessary. Upon

completion of the in-home assessment, the care recipient develops a written individualized person-centered support plan with:

(A) The assistance of a coach in the preparation of the support plan; and

(B) Participation from family, friends, and others, if the care recipient desires such additional assistance.

The support plan identifies all the services and supports needed or currently used to meet the care recipient's needs, both formal and informal, including those provided by other programs such as medicaid or private paid programs. The plan shall be reviewed with the care recipient to confirm that it is the plan the care recipient desires.

(f) An area agency on aging shall use the assessment data and individual's support plan to confirm kupuna care program eligibility, then authorize and coordinate services and supports. An area agency on aging shall directly authorize and allot kupuna care services, and shall not delegate the service authorization function to its subcontractors.

(g) An individual shall be determined to be ineligible for kupuna care services when:

(1) An individual does not meet the eligibility requirements specified;

(2) An individual need is not substantiated through an in-home assessment;

(3) An individual leaves the State or the individual's whereabouts are unknown; or

(4) An individual refuses services.

(h) An area agency on aging shall provide an individual with written notice of the disposition of the request for kupuna care services.

(i) An individual who has been determined ineligible for kupuna care services shall have the opportunity to appeal the decision to the director of the executive office on aging within ninety days after the date of notice of the area agency on aging's written disposition. The director of the executive office on aging's decision on the appeal shall be issued in writing and shall be final.

(j) Prior to termination of kupuna care services, service providers shall notify the appropriate contracting area agency on aging of the date and reason for termination. Termination of kupuna care services may occur if the care recipient:

(1) Moves and the provider is unable to locate the care recipient;

(2) Is transferred to another area agency on aging;

(3) Dies;

(4) No longer needs or wants kupuna care services and supports, or no longer needs or wants a particular kupuna care service or support;

(5) Is uncooperative with the service provider;

(6) Is noncompliant with the basic requirements of the program;

(7) Engages in behavior that threatens or demonstrates violence toward the service provider;

(8) Is placed or resides in a long-term care facility, such as an intermediate care facility, assisted living facility, skilled nursing facility, hospital, community care foster care home, foster family home, adult residential care home, or expanded adult residential care home;

(9) Uses comparable services from other programs; or

(10) Has a communicable disease that threatens the safety and welfare of the service provider.

(k) All area agencies on aging shall record all consumer data, assessments, and service delivery within a statewide consolidated database.

(e) As used in this section, unless the context otherwise requires:

~~“Aging and disability resource centers” means an entity established by the State as part of the state system of long-term care, serving as a highly visible and trusted source where people of all incomes and ages can get information on the full range of long-term support options, and a single point of entry for access to public long-term support programs and benefits.~~

~~“Family caregivers” means a spouse, adult child, other relative, partner, or friend who has a personal relationship with, and provides a broad range of unpaid assistance for an older adult with a chronic or disabling condition.~~

~~(d) (l) The director [shall] may adopt rules pursuant to chapter 91 necessary for the purposes of this section.”~~

SECTION 5. Until rules pertaining to the kupuna caregivers program are adopted by the director of health, should the director of health choose to do so, the existing rules pertaining to the kupuna care program may be used as guidance, when appropriate, for the kupuna caregivers program.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000 or so much thereof as may be necessary for fiscal year 2017-2018 for the establishment and implementation of the kupuna caregivers program.

The sum appropriated shall be expended by the executive office on aging for the purposes of this Act.

SECTION 7. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 2017.

(Approved July 6, 2017.)

Note

1. Edited pursuant to HRS §23G-16.5.