

ACT 160

S.B. NO. 3113

A Bill for an Act Relating to Kupuna Care Program.

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

SECTION 1. The purpose of this Act is to improve government efficiency by amending part II of chapter 349, Hawaii Revised Statutes, entitled kupuna care and caregiver support services, to incorporate the kupuna caregivers program into the kupuna care program.

SECTION 2. Section 349-16, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

“Caregiver” 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 having a chronic or disabling condition.

“Caregiver support services” means services that offer education, skills, knowledge, or mental, emotional, or social support to employed caregivers.

“Employed caregiver” means an individual who:

(1) Provides care for a care recipient; and

(2) Is employed at least twenty hours per week by one or more employers or is self-employed.

“Financial management service provider” means an agency under contract with the executive office on aging to act as the fiscal and employer agent on behalf of a care recipient to manage employer-related functions, process payment to employees and vendors, and monitor the care recipient’s allocation of funds.”

2. By amending the definitions of “aging and disability resource centers” and “attendant care” to read:

“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] obtain information on the full range of long-term support options, and as a single point of entry for access to public long-term support programs and benefits.

“Attendant care” means standby assistance, supervision, or cues, including verbal prompts for medication, bathing, eating, grooming, and dressing, and may also 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.”

3. By amending the definitions of “care recipient” and “case management” to read:

“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, adult foster [family] home, community care foster family home, adult residential care home, ~~[or]~~ expanded adult residential care home[;], or developmental disabilities domiciliary 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, caregivers, or [family] employed 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.”

4. By amending the definition of “homemaker services” to read:

““Homemaker [~~services~~]” means a person who provides assistance with preparing meals, shopping for personal items, managing money, using the telephone, or performing light housework.”

5. By amending the definitions of “kupuna care core services”, “person-centered planning”, and “person-centered support plan” or “support plan” to read:

““Kupuna care [~~core~~] services” means [~~services consisting of~~]:

- (1) Services for the employed caregiver, including:
 - (A) Adult day care;
 - (B) Respite care; and
 - (C) Caregiver support services;
- (2) Services for the care recipient, including:
 - (A) Attendant care;
 - (B) Case management;
 - (C) Care coordination;
 - (D) [~~Chores;~~] Chore;
 - (E) Homemaker [~~services~~];
 - (F) Home-delivered meals;
 - (G) Personal care;
 - (H) Transportation; ~~[or]~~
 - (I) Assisted transportation[;]; or
 - (J) Respite care for employed caregivers.

“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[~~], caregiver, or employed caregiver~~.

“Person-centered support plan” or “support plan” means a plan developed by a care recipient [~~with the assistance of a coach,~~] caregiver, or employed caregiver that allows the care recipient, caregiver, or employed caregiver 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.”

6. By amending the definition of “respite care” to read:
 ““Respite care” means services that offer temporary, substitute supports, or living arrangements for care recipients to provide a brief period of rest to ~~[qualified]~~ employed 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 employed caregiver; and
 - (4) Any combination of services to assist the employed caregiver as deemed appropriate by the area agency on aging.”

7. By deleting the definition of “coach”.
~~““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.”]~~

8. By deleting the definition of “family caregivers”.
~~““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.”]~~
9. By deleting the definition of “qualified caregiver”.
~~““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.”]~~

SECTION 3. Section 349-17, Hawaii Revised Statutes, is amended to read as follows:

- ~~[[H§349-17]]~~ Kupuna care program.** (a) The executive office on aging may establish the kupuna care program. The program shall provide an array of 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.] to age in place and avoid institutionalization and to provide support services to caregivers or employed caregivers in their efforts to assist older adults to continue residing in their homes.
- (b) The program shall be coordinated and administered by the executive office on aging and implemented through the area agencies on aging.
- (c) To qualify for the kupuna care program, an individual shall be a care recipient, caregiver, or employed caregiver as defined in section 349-16.
- (d) An area agency on aging, through the aging and disability resource center or any other entity designated by the executive office on aging, shall determine eligibility for the program, which may include the following:
- (1) An intake process to preliminarily determine eligibility for publicly funded services and supports, including kupuna care services;
 - (2) A comprehensive in-home assessment of the care recipient or a caregiver assessment, if necessary; and
 - (3) A written, individualized, person-centered support plan that identifies all services and supports needed or currently used to meet the

needs of the care recipient, caregiver, or employed caregiver, including those provided by other programs such as medicaid or privately paid programs.

(e) An area agency on aging shall use the assessment data and individual's support plan to confirm kupuna care program eligibility before authorizing and coordinating services and supports. An area agency on aging shall authorize and allot kupuna care services and shall not delegate the service authorization function to the agency's subcontractors.

[(e)] (f) 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] individualized, person-centered support plan for each eligible care recipient[; caregiver, or employed caregiver; provided that:

- (1) Traditional service delivery shall be by 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] that provides services to care recipients, caregivers, and employed caregivers under a formal contractual arrangement with the executive office on aging or applicable area agency on aging; 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.] through person-centered planning. The care recipient shall have decision-making authority over [the care recipient's budgeted dollar amount] their own budget to purchase and manage [the] their needed services and supports based upon [the care recipient's] their 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 349-16.

(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]~~ The individual does not meet the eligibility requirements specified;
- (2) ~~[An individual]~~ The individual's need is not substantiated through an in-home assessment;
- (3) ~~[An]~~ The individual leaves the State or the individual's whereabouts are unknown; or
- (4) ~~[An]~~ The individual refuses services.

(h) An area agency on aging shall provide an individual with written notice of the disposition of ~~[the request]~~ ineligibility 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.]~~ applicable area agency on aging.

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

- (1) Moves and the provider is unable to locate the care recipient[:], care-giver, or employed caregiver;
- (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]~~ family home, adult foster ~~[family]~~ home, adult residential care home, ~~[or]~~ expanded adult residential care home~~[:], or developmental disabilities domiciliary 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.

(l) The kupuna care program shall award an allocation of funds to cover costs for services, subject to availability of funding; provided that the allocated funds shall be issued directly to the service provider or financial management service provider upon request and receipt of an invoice for services rendered.

(m) The executive office on aging shall develop an outreach plan to inform individuals of the kupuna care program and services of the program.

(n) The executive office on aging shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, on the kupuna care program. The report shall include, at minimum:

(1) The number of individuals who participate in the kupuna care program, including the types of programs in which they participate; and

(2) The number of individuals on a program waitlist, including the types of programs for which they are on a waitlist.

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

SECTION 4. Section 349-18, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 27, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.