

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 11 CHILD WELFARE SERVICES PROGRAMS

CHAPTER 1620

ADOPTION ASSISTANCE AND REIMBURSEMENT OF NONRECURRING
ADOPTION EXPENSES FOR CHILDREN WITH SPECIAL NEEDS

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Historical Note: Chapter 17-1620 is based substantially
 upon chapter 17-944.1. [Eff 11/04/85;
 am 07/11/87; am and comp 01/18/90; R **DEC 09 2010**]

§17-1620-1 Purpose. The purpose of this program is
 to provide financial assistance under both the federally
 funded and state funded adoption assistance programs, the
 latter within the limits of funds appropriated to the
 department, in order to facilitate the adoption of children
 with special needs who might otherwise remain in long-term
 foster care. [Eff
DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §346-14;
 45 C.F.R. §1356.40)

§17-1620-2 Goals. Adoption assistance shall be
 directed at meeting the following departmental goals for
 children who have been determined by the department to be
 children with special needs:

- (1) Safety;
- (2) Permanency; and
- (3) Well being. [Eff **DEC 09 2010**] (Auth:
 HRS §§346-14, 350-2) (Imp: HRS §350-2)

§17-1620-3 Definitions. As used in this chapter:
 "Adoption assistance" means the provision of an
 ongoing adoption subsidy, medical benefits, and/or social
 services to enable the adoption of children with special
 needs.

"Adoption assistance agreement" means a written agreement between the adoptive or prospective adoptive parent(s) and the department specifying conditions for the provision of adoption assistance.

"Adoption exchange" refers to a mechanism through which children who are available for adoption are brought to the attention of families who are interested in adoption.

"Adoption registry" means an information and resource listing service of available children and families wanting to adopt.

"Adoption service" means a social service provided by the department or a licensed child-placing organization for children whose parent(s) have been found to be unwilling or unable to provide them with a safe and nurturing permanent home and who need and can benefit from permanent family ties established through legal adoption.

"Adoption subsidy" means the provision of monetary assistance to enable families to provide for the needs of eligible children in order to facilitate their adoption.

"Adoptive home" means a home which has been studied and approved by the department or a licensed child-placing organization for the placement of children for the purpose of adoption.

"Adoptive parent(s)" means a person(s) who has adopted a child.

"Adoptive placement" means the placement of a child, who is legally free for adoption, into an approved adoptive home.

"Aid to families with dependent children" or "AFDC" means federally funded aid to families with dependent children based on meeting requirements defined in section 406(a) or section 407 of the Social Security Act and in effect on July 16, 1996.

"Applicable child" is a child who

- (i) turns 16 (or older) during October 1, 2009 through September 30, 2010; or
- (ii) turns 14 (or older) during October 1, 2010 through September 30, 2011; or
- (iii) turns 12 (or older) during October 1, 2011 through September 30, 2012; or
- (iv) turns 10 (or older) during October 1, 2012

- through September 30, 2013; or
- (v) turns 8 (or older) during October 1, 2013 through September 30, 2014; or
 - (vi) turns 6 (or older) during October 1, 2014 through September 30, 2015; or
 - (vii) turns 4 (or older) during October 1, 2015 through September 30, 2016; or
 - (viii) turns 2 (or older) during October 1, 2016 through September 30, 2017; or
turns any age beginning October 1, 2017; or
 - (ix) has been in foster care for 60 consecutive months; or
 - (x) is a sibling to a child who is eligible due to the child's age or length in foster care and is to be placed in the same adoptive placement of the applicable sibling.

"Department" means the department of human services.

"Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been or are not eligible to be reimbursed from other sources or other funds.

"Other expenses" means the costs of the adoption incurred by or on behalf of the prospective adoptive parent(s) for which they are responsible. Such costs may include the adoptive home study, including health and psychological examinations, supervision of the placement prior to adoption, and transportation and reasonable costs of lodging and food for the child and prospective adoptive parent(s) when necessary to complete the adoption process.

"Prospective adoptive parent(s)" means a person(s) who has been studied and approved by the department or a licensed child-placing organization and identified by the department or licensed child-placing organization as the most appropriate adoptive placement for the child.

"Specified relative" means father, mother, brother, sister, half-brother, half-sister, uncle, aunt, uncle half-blood, aunt half-blood, great uncle, great aunt, great uncle half-blood, great aunt half-blood, grandfather, grandmother, great grandfather, great grandmother, first

cousin, first cousin once removed, nephew or niece, great-great grandmother, great-great grandfather, great-great-great grandmother, great-great-great grandfather, great-great aunt, great-great uncle, great-great aunt half blood, great-great uncle half blood; stepfather, stepmother, stepbrother, and stepsister; the adoptive parents of a legally adopted child as well as other natural or legally adopted children and relatives of the adoptive parents; and the legally married spouse of any of the persons specified in this subsection even after the marriage has ended in death or divorce.

"Voluntary relinquishment" means the release of a child by the parent(s) for the purpose of adoption. [Eff DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §673(e); 45 C.F.R. §§1356.40, 1356.41)

§17-1620-4 Scope of program. (a) The department shall authorize adoption assistance and reimbursement of nonrecurring adoption expenses in accordance with departmental procedures, for State-only funded assistance, when the child and family meet the eligibility requirements specified in sections 17-1620-7 to 17-1620-11, as applicable;

- (b) Adoption assistance shall include:
- (1) A qualified adoption subsidy to enable the adoption of a child with special needs;
 - (2) Qualified medical care benefits under the state's Title XIX Medicaid program in the state where the children reside, for children who are eligible for federally funded adoption assistance;
 - (3) Qualified medical care benefits under the state's Medicaid program for children who are eligible for state funded adoption assistance, including children who cannot be placed with an adoptive parent without medical assistance due to special needs for medical, mental health, or rehabilitative care. ;
 - (4) Qualified social services under Title XX of the federal Social Security Act in accordance with the procedures of the state in which the child resides.

(c) Nonrecurring adoption expenses shall include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been or are not eligible to be reimbursed from other sources or other funds. Other expenses means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment and may include the adoption study, including health and psychological examination, supervision of the placement prior to adoption, transportation and reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process. [Eff] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§1356.40, 1356.41)

§17-1620-5 Geographic area of service. Adoption assistance shall be available for eligible children with special needs throughout the state. Adoption assistance agreements entered into between the department or other relevant agencies and prospective adoptive parent(s) who reside out of the state or who subsequently move out of the state, will continue to remain in effect in accordance with the provisions of the agreement. [Eff . DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §1356.40)

§17-1620-6 Application for adoption assistance and for reimbursement of nonrecurring adoption expenses.

(a) The provisions of sections 17-912-9 and 17-912-10 shall apply to this chapter.

(b) The department shall inform prospective adoptive parent(s) of children who are under the placement responsibility of the department of the availability of and eligibility criteria for adoption assistance and reimbursement of nonrecurring adoption expenses pursuant to this chapter.

(c) The department shall inform prospective adoptive

parent(s) of children who are under the placement responsibility of the department of the availability of and eligibility criteria of the adoption tax credit.

(d) An application for adoption assistance and reimbursement for nonrecurring adoption expenses, shall be provided to each prospective adoptive parent(s) upon request.

(e) If the prospective adoptive parent(s) chooses to apply for adoption assistance or reimbursement for nonrecurring adoption expenses, the prospective adoptive parent(s) or a licensed child placing organization must submit a completed application to the department.

(f) An application for adoption assistance or reimbursement for nonrecurring adoption expenses must be submitted prior to finalization of the adoption.

(g) The department shall inform courts and private non-profit adoption agencies in the State of the availability of reimbursement for non-recurring adoption expenses.

[Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§1356.40, 1356.41)

§17-1620-7 Eligibility requirements for adoption assistance. (a) There shall be no income eligibility requirement or means test for adoptive or prospective adoptive parent(s) in determining eligibility for adoption assistance.

(b) To be eligible for state funded adoption assistance, the following conditions shall be met:

(1) The child under eighteen years of age (or the age of 21 if the child has a mental or physical disability which would warrant continuation of assistance) shall have been determined by the state to be a child with special needs. A child with special needs is defined as follows:

(A) The child cannot return to the home of his or her parent(s) as evidenced by:

(i) An order from a court of competent jurisdiction which terminates

- parental rights; or
 - (ii) A petition to a court of competent jurisdiction for a permanent plan hearing for the purpose of terminating parental rights; or
 - (iii) A signed relinquishment by the parent(s).
- (B) The child cannot be placed with adoptive parent(s) without adoption assistance including medical assistance under title XIX, because of one or more of the following specific factors or conditions:
- (i) Age four or older by the date of placement of the child with the prospective adoptive parent(s);
 - (ii) Race or ethnic background;
 - (iii) Member of a sibling group being adopted together; or is a child being adopted by adoptive parent(s) who have previously adopted another child(ren) born of the same mother or father;
 - (iv) Presence of a severe or chronic medical, physical, mental, or emotional condition, behavioral disorder or other clinically diagnosed disability which has been established and documented in writing by a professional, other than the child's placement worker, who is competent to make an assessment and operating within the scope of his or her profession;
 - (v) High risk of developing a severe or chronic medical, physical, mental, or emotional condition, behavioral disorder or other clinically diagnosed disability which has been established and documented in writing by a

- professional, other than the child's placement worker, who is competent to make an assessment and operating within the scope of his or her profession; or
- (vi) The child is an applicable child who meets all of the medical or disability requirements for Supplemental Security Income (SSI); and
- (C) Is a child for whom the department has determined that reasonable efforts to locate an appropriate adoptive home without adoption assistance have not been successful. These efforts shall include, but are not limited to:
- (i) Registration with the department or child-placing organization homefinding services; and
 - (ii) Exploration or registration with the local adoption registry or exchange; or
 - (iii) Exploration or registration with an out-of-state adoption registry or exchange;

This subparagraph (C) shall not apply when the child has established significant emotional ties with the current resource family or with relative(s) and the current resource family or relatives has expressed an interest in adopting the child and have been approved in accordance with chapter 17-805 as an appropriate adoptive home for the child; and

- (2) In addition, the child shall have been determined by the state to be:
- (A) Not the biological child of the adopting parent(s); and
 - (B) Placed for adoption in an approved adoptive home in accordance with chapter 17-805 and HRS §346-19.7 including

fingerprint-based FBI criminal background checks and check of the child abuse and neglect registries for all adults residing in the prospective adoptive home, including checks in states where any adult residing in the home has resided in the last 5 years;

- (3) The department shall have entered into an adoption assistance agreement with the prospective adoptive parent(s) prior to the finalization of adoption;
- (4) The child shall be the subject of a Hawaii adoption assistance agreement and not the subject of another state's adoption assistance agreement; and
- (5) The adoptive placement shall not have occurred in violation of applicable laws, or
- (6) In the case where the child received adoption assistance in a prior adoption that is dissolved or in a prior adoption where both adoptive parents died, the child is subsequently adopted and the conditions of subsections (b) (1), (b) (3), (b) (4), and (b) (5) are met. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; HRS §346-19.7; 42 U.S.C. 673, 45 C.F.R. §§1356.40, 1356.41; ACYF-CB-PA-01-01)

§17-1620-8 Eligibility requirements for federally funded adoption assistance. (a) To establish eligibility for federally funded (Title IV-E) adoption assistance for a child who is NOT an "applicable child", the criteria of sections 17-1620-7(a) and (b) (1) through (5) shall be met and the following additional eligibility requirements shall be met prior to the finalization of the adoption:

- (1) The child is eligible for AFDC (as was in effect July 16, 1996) pursuant to the following:
 - (A) For children whose adoptions were finalized on or after October 1, 2005, the child is AFDC eligible at the time of removal from the home of a specified relative; and

- (B) The child shall have been removed from the home of a specified relative as a result of:
- (i) A judicial order. There shall be a judicial determination that continuation in the home would be contrary to the welfare of the child. For children removed from the home prior to January 23, 2001, this judicial determination shall have been made in any court order up to the time of the initiation of the adoption proceedings. For children removed from the home on or after January 23, 2001, this judicial determination shall have been made at the first court hearing sanctioning removal of the child; or
 - (ii) Relinquishment to the department or a licensed, private, nonprofit child-placing organization provided that a petition has been filed with the court to remove the child from his or her home within six months of the time the child lived with the specified relative and there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the welfare of the child. The voluntary relinquishment must be signed by a parent(s) or a legal guardian(s) who is a specified relative to the child; or
 - (iii) A valid voluntary foster custody agreement signed by the child's legal custodian and the department which leads to a physical or constructive removal of the child, and there must have been a Title IV-E foster care maintenance payment paid on the child's behalf under the agreement. In addition, the child shall be under the care and custody of the department; and

(C) The child shall have been living with the specified relative from whom removed within six months prior to the month in which a voluntary foster custody agreement was entered into or court proceedings were initiated leading to the removal of the child from the home as a result of a determination that remaining in the home would be contrary to the welfare of the child; or

- (2) The child meets the requirements for Title XVI Supplemental Security Income (SSI) prior to the finalization of the adoption; or
- (3) The child is a child of a minor parent who is in foster care and receiving federally funded foster care maintenance payments that cover both the minor parent and the child; or
- (4) The child received Title IV-E adoption assistance in a prior adoption that is dissolved or both adoptive parents died, and the child is subsequently adopted, and the conditions of section 17-1620-7(b)(1), (b)(3), (b)(4), (b)(5), and (b)(6) are met; and
- (5) The child is a U.S. citizen or a qualified alien under section 431 of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA); and
 - (A) The child must have lived in the United States (U.S.) for five years if the child entered the U.S. on or after August 22, 1996 and is placed with an unqualified alien; or
 - (B) The child is exempt from the five year residency requirement because the child is adopted by a U.S. citizen or qualified alien; or the child is a member of the exception groups pursuant to 8 U.S.C. section 1612(b): refugees, asylees, aliens whose deportation is withheld, veterans and those on active duty (as well as the spouse and unmarried dependent children of that person), Cuban or Haitian entrants, and Amerasians from Vietnam; and
- (6) The prospective adoptive parent's home, and all

adult members residing in the household, is an approved adoptive home that has met the following background checks:

- (A) The fingerprint-based FBI clearances for adult household members shall be completed in accordance with federal and state statutes and departmental procedures prior to approving the adoptive home.
- (B) The check of the state's child abuse and neglect registry for all adult household members, including the registries in States where an adult resided within the preceding 5 years, shall be completed in accordance with federal and state statutes and departmental procedures prior to approving the adoptive home.

(b) Effective October 1, 2009, to establish eligibility for federally-funded (Title IV-E) adoption assistance for a child who is an "applicable child", the criteria of section 17-1620-7(a) and (b)(1)-(5), 17-1620-8(a)(5)&(6), and the following additional eligibility requirements shall be met prior to the finalization of the adoption:

- (1) At the time of the initiation of adoption proceedings the child was in the care of a public or licensed private child placement agency by way of a voluntary placement, voluntary re-linquishment, or a court-ordered removal with a judicial determination that remaining at home would be contrary to the child's welfare; or
- (2) Meets all disability or medical requirements of the Supplemental Security Income (SSI) program; or
- (3) Was residing in a resource family home or child care institution with the child's minor parent and the child's minor parent was in foster care pursuant to a voluntary placement, voluntary relinquishment or court-ordered removal with a judicial determination that remaining at home would be contrary to the child's welfare; or

(4) Was eligible for federal adoption assistance in a previous adoption (or would have been found eligible had the adoption and Safe Families Act of 1997 been in effect at the time of the previous adoption) in which the adoptive parents have died or had their parental rights terminated.

(c) Children who have special needs but who are not citizens or resident of the U.S. and were either adopted in another country or brought to this country for the purpose of adoption are categorically ineligible for adoption assistance, except if the child meets the eligibility criteria after the disruption of the international adoption.

(d) In determining whether a child receiving Federally-funded kinship guardianship assistance is eligible for federally-funded adoption assistance, the child's placement with the relative guardian and any kinship guardianship payments made on behalf of the child shall be considered never to have been made. This applies where the guardianship is dissolved and the child is later placed for adoption with the relative guardian or another individual.

(e) The state shall spend an amount equal to any savings in state expenditures under title IV-E as a result of applying the new program rules to applicable children for a fiscal year for services permitted under title IV-B or IV-E. [Eff **DEC 09 2010**] (Auth: HRS §346 14)(Imp: HRS §346-14; 42 U.S.C. §673, 45 C.F.R. §§233.10, 233.20, 233.40, 233.50; 45 C.F.R. §§ 1356.21(c), 1356.22, 1356.30, 1356.40, 1356.41; Pub. L. No. 104-193; Pub. L. No. 105-33;ACYF-CB-PA-01-01, Pub. L. No. 109-171)

§17-1620-9 Eligibility requirements for state funded adoption assistance. If a child is determined to be ineligible for federally funded adoption assistance, the child may receive state funded adoption assistance when the criteria of section 17-1620-7 is met and the child, at the time of initiation of adoption proceedings, was in the care

and custody of the department or a licensed child-placing organization to which the department has transferred custody. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1620-10 Eligibility requirements for reimbursement of nonrecurring adoption expenses. (a) Nonrecurring adoption expenses shall be reimbursed if the child meets the eligibility requirements for adoption assistance as described in section 17-1620- 7(b) (1) (A) - (C), 7(b) (2) - (6), and 17-1620-8(a) (5).

(b) The nonrecurring adoption expenses shall not have been or are not eligible to be reimbursed from other sources or funds. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R §§473 1356.40, 1356.41; Pub. L. No. 104-193; Pub. L. No. 105-33, ACYF-CB-PA-01-01)

§17-1620-11 Eligibility requirements for inter-jurisdictional adoptions. (a) For inter-jurisdictional adoptions, if the department does not have responsibility for placement and care of the child, the adoptive parent(s) shall apply for adoption assistance in the adoptive parent(s)' state of residence.

(b) For inter-jurisdictional adoptions where there is no signed agreement for adoption assistance, the state in which the final adoption decree is issued is responsible for reimbursement of nonrecurring adoption expenses if the child meets the eligibility requirements of that state. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §1356.40; ACYF-CB-PA-01-01)

§17-1620-12 Determination of adoption assistance subsidy and reimbursement of nonrecurring adoption expenses. (a) The amount of the adoption assistance subsidy shall:

- (1) Not exceed the amount the child would have received if the child had been in a resource family boarding home in accordance with chapter

17-1617;

- (2) Be based upon the needs of the child and the circumstances of the adoptive family in meeting those needs; and
- (3) Be determined by agreement between the prospective adoptive parent(s) and the department.

(b) Once a child has been determined eligible for adoption assistance, adjustments in the adoption subsidy shall be made with the participation and concurrence of the adoptive parent(s) and shall be based upon changes in the needs of the child or the circumstances of the adoptive family, unless there is an across-the-board adjustment to the foster care maintenance payment rate.

(c) The amount of reimbursement for nonrecurring adoption expenses shall:

- (1) Not exceed the lesser of actual cost or \$2,000 per child;
- (2) Be determined by agreement between the prospective adoptive parent(s) and the department; and
- (3) Be based upon an itemized bill or receipt for the allowable nonrecurring adoption expenses submitted to the department no later than two years after the date of the final decree of adoption. [Eff **DEC 09 2010**] (Auth: HRS §346-14; 45 C.F.R. §§1356.40, 1356.41) (Imp: HRS §§346-14, 346-17)

§17-1620-13 Method of payment. (a) Payment of adoption subsidy shall be made to the adoptive parent(s) on a monthly basis following the month of care.

(b) Payment for nonrecurring adoption expenses shall be made upon receipt of an itemized bill or receipt for the allowable nonrecurring adoption expenses submitted to the department no later than two years after the date of the final decree of adoption. [Eff **DEC 09 2010**] (Auth: HRS §346-14; 45 C.F.R. §1356.40) (Imp: 45 C.F.R. §§1356.40, 1356.41)

§17-1620-14 Initiation of adoption assistance.

(a) Upon compliance with this chapter, adoption assistance shall be initiated no earlier than:

- (1) The date of the signing of the adoption assistance agreement provided that all eligibility requirements are met; and
- (2) The child's placement into an approved adoptive home in accordance with chapter 17-805.

(b) If deferral of the adoption subsidy is based on the adopting family's refusal of payment, payment may be initiated upon the family's request. The amount shall be in accordance with this chapter. Deferral of the adoption subsidy shall not affect the receipt of medical assistance.

[Eff **DEC 09 2010**]
(Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §673; 45 C.F.R. §1356.40; Pub. L. No. 99- 272, §§9529, 12305; ACYF-CB-PA-01-01)

§17-1620-15 Duration of adoption assistance.

Adoption assistance may continue only until the child reaches either:

- (1) The age of eighteen or, for State adoption assistance only, the end of the school year in which the child attains age twenty provided the child remains enrolled in high school in accordance with the rules of the department of education through the end of that school year; or
- (2) The age of twenty-one years if an appropriately qualified professional, other than the placement worker, provides written verification that the child has a severe or chronic medical condition or physical, mental or emotional condition, behavioral disorder or other clinically diagnosed disability that warrants continued adoption assistance.

[Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14, 42 U.S.C. §673(a)(4); 45 C.F.R. §1356.40)

§17-1620-16 Adoption assistance agreement.

The written adoption assistance agreement, binding on the

parties to the agreement, the department and the adoptive or prospective adoptive parent(s), must:

- (1) Be signed and in effect at the time of or prior to the final decree of adoption. A copy of the signed agreement must be given to each party; and
- (2) Specify its duration; and
- (3) Specify the nature and amount of any payment, services, and assistance to be provided under such agreement and, for purposes of eligibility under Title XIX and Title XX of the Social Security Act, specify that the child is eligible for Medicaid services and social services; and
- (4) Specify with respect to agreements entered into on or after October 1, 1983, that the agreement shall remain in effect regardless of the state of which the adoptive parents are residents at any given time.
- (5) Contain provisions for the protection of the interest of the child in case the adoptive parents and child should move to another state while the agreement is in effect.

[Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §1356.40)

§17-1620-17 Eligibility for adoption assistance outside the state. (a) Adoption subsidy payments shall continue if the adoptive family and child move out of the state while the adoption assistance agreement is in effect.

(b) For children with state funded adoption assistance agreements in effect, the state shall continue to retain financial responsibility for medical care under Title XIX or the state medical program for children receiving state funded adoption assistance.

(c) Children with federally funded adoption assistance agreements in effect are eligible for medical care benefits under the Title XIX Medicaid program of the state in which they reside.

(d) The adoptive family may apply for services under Title XX of the Social Security Act in the new state of residence. Social services as provided under Title XX may be available to the child in accordance with the procedures

of the state in which the child resides.

(e) The terms of the agreement shall remain in effect regardless of the state in which the adoptive family lives at any given time.

(f) For agreements entered into on or after October 1, 1983, if a needed service specified in the agreement is not offered by the new state of residence, the state making the original adoption assistance payment remains financially responsible for providing the specified service(s). [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 USC §673(b); 45 C.F.R. §1356.40)

§17-1620-18 Disposition of application. The provisions of section 17-804-5 shall apply to this chapter. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1620-19 Advance notice of action to terminate or reduce benefit payments. The provisions of section 17-912-49 shall apply to this chapter. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-12)

§17-1620-20 Overpayments and recoupment. The provisions of section 17-912-43 shall apply to this chapter. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-44)

§17-1620-21 Reporting changes. (a) The adoptive parent(s) shall inform the department within thirty days of circumstances which would make them ineligible for adoption assistance as specified in this chapter, or eligible for adoption subsidy in a different amount.

(b) Failure to report to the department changes in circumstances which would affect the child's eligibility for adoption assistance shall be investigated by the department as suspected fraud.

(c) In situations where fraud is suspected, the provisions of chapter 17-604.1 shall apply.

[Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1620-22 Termination of adoption assistance. The department shall terminate payment to the prospective adoptive or adoptive parent(s) upon sufficient evidence that any one of the following circumstances exists:

- (1) The child has reached the age of eighteen; or in a case in which the department extended the adoption assistance agreement upon determination that the child had a disability warranting the continuation of adoption assistance, the child has reached the age of twenty-one;
- (2) For state adoption assistance only, the end of the school year in which the child attains the age of twenty provided the child remains enrolled in high school through the end of that school year;
- (3) The State determines that the child is no longer receiving financial support from the prospective adoptive or adoptive parent(s);
- (4) The State determines that the adoptive parent(s) are no longer legally responsible for the support of the child;
- (5) The adoptive family is able to assume full financial responsibility and requests termination of payments and services;
- (6) Reimbursement of nonrecurring expenses is completed and the family is not eligible for other adoption assistance.
- (7) The adoption is not approved in accordance with chapter 17-805 as an appropriate adoptive home for the child.
- (8) The prospective adoptive parent(s) elect not to adopt the child. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §1356.40)

§17-1620-23 Confidentiality. Requirements for

confidentiality shall be as provided in chapter 17-1601.
[Eff **DEC 09 2010**] (Auth: HRS §346-14; 45 C.F.R.
§§205.50, 1356.40) (Imp: HRS §346-10; 45 C.F.R. §§205.50,
1356.40)

§17-1620-24 Hearings. Requirements for administrative hearings shall be as provided in chapter 17-1602, except that:

- (1) In the case of a successful appeal from a denial of an application for adoption assistance made after the finalization of the adoption, adoption assistance shall be paid retroactive as of the date of the department's receipt of the application for adoption assistance; and
- (2) In the case of a successful appeal from a denial of an application for adoption assistance made prior to the finalization of the adoption, adoption assistance shall be initiated in accordance with this chapter. [Eff **DEC 09 2010**] (Auth: HRS §346-14(9); 45 C.F.R. §§205.10, 1356.40) (Imp: HRS §§346-12, 346-14(9); 45 C.F.R. §§205.10, 1356.40)

§1620-25 Departmental review of adoption subsidy rate. The department shall review the established rate of adoption subsidy at least every five years to assure its continued appropriateness. [Eff **DEC 09 2010**] (Auth: HRS 346-14) (Imp: 45 C.F.R. §1356.21)

§1620-26 Independent audit. The department shall arrange for a periodic and independently conducted audit, no less frequently than once every three years, of the Title IV-E program. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: 42 U.S.C. §671)

3. The repeal of chapter 17-944.1 and the adoption of chapter 17-1620, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the

Lieutenant Governor.

1620-22

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