

74. Chapter 1726 is repealed.

75. Chapter 1727 is repealed.

76. Chapter 1728 is repealed.

77. Chapter 1728.1 is repealed.

78. Chapter 1730 is repealed.

79. Chapter 1730.1 of Title 17, Hawaii Administrative Rules, entitled, "MEDICALLY NEEDY SPENDDOWN", is an addition of a new chapter to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12

MED-QUEST DIVISION

CHAPTER 1730.1

MEDICALLY NEEDY SPENDDOWN

Subchapter 1 General Provisions

§17-1730.1-1 Purpose

§17-1730.1-2 General requirements

§§17-1730.1-3 to 17-1730.1-7 (Reserved)

Subchapter 2 Eligibility Requirements

§17-1730.1-8 Purpose

§17-1730.1-9 Basic requirements

§17-1730.1-10 Categorical requirements

§17-1730.1-11 Income requirements

§17-1730.1-12 Asset Requirements
§17-1730.1-13 Spenddown calculation for continued
eligibility
§§17-1730.1-14 to 17-1730.1-18 (Reserved)

Subchapter 3 Freedom of Choice, Enrollment,
Benefits, and Disenrollment

§17-1730.1-19 Purpose
§17-1730.1-20 Freedom of choice
§17-1730.1-21 Enrollment
§17-1730.1-22 Benefits
§17-1730.1-23 Disenrollment from a health plan
§§17-1730.1-24 to 17-1730.1-28 (Reserved)

Historical Note: This chapter is based substantially
upon repealed chapter 17-1730. [Eff 12/27/97; am
07/06/99; am 06/19/00; am 12/03/01; am 05/10/03; am
01/31/09; am 06/11/09; am 09/10/09; R]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-1730.1-1 Purpose. This chapter describes the
spenddown of excess income for children under age
nineteen years, pregnant women, and aged, blind or
disabled (ABD) individuals with incurred medical
expenses to qualify for medical assistance who are
ineligible to participate in a coverage group
established under the provisions of the Affordable Care
Act of 2010, or the mandatory or optional categorically
needy coverage group under Title XIX of the Social
Security Act. [Eff] (Auth: HRS §346-
14; 42 C.F.R. §§435.2, 435.301, 435.310, 435.320,
435.322, 435.324) (Imp: HRS §346-14; 42 C.F.R.
§§435.2, 435.301, 435.310, 435.320, 435.322, 435.324)

§17-1730.1-2 General requirements. The
confidentiality, administrative appeal, fraud, medical
assistance recovery, application, eligibility review,
and adverse action provisions described in subtitle 12

shall pertain to an individual who applies or is eligible under this chapter. [Eff]
(Auth: HRS §§346-14, 346-29, 346-44; 42 C.F.R. §§431.200, 431.206, 431.221, 431.230, 431.300, 435.116, 435.201, 435.907, 435.916, 455.1) (Imp: HRS §§346-14, 346-29, 346-44; 42 C.F.R. §§431.200, 431.206, 431.221, 431.230, 431.300, 435.116, 435.201, 435.907, 435.916, 455.1)

§§17-1730.1-3 to 17-1730.1-7 (Reserved).

SUBCHAPTER 2 ELIGIBILITY REQUIREMENTS

§17-1730.1-8 Purpose. This subchapter describes the requirements for participation under this chapter. [Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.2 435.301, 435.811) (Imp: HRS §346-14; 42 C.F.R. §§435.2 435.301, 435.811)

§17-1730.1-9 Basic requirements. An individual shall meet the basic eligibility requirements which include but are not limited to, citizenship, state residency, verification of identity, not residing in a public institution, and the provision of a social security number, as described in chapter 17-1714.1. [Eff] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §§435.110, 435.400, 435.910) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.110, 435.400, 435.910)

§17-1730.1-10 Categorical requirements. An individual eligible to participate under this chapter would otherwise be eligible under chapters 17-1715, 17-1716 or 17-1719 except for having income in excess of the applicable income standard but is insufficient to meet incurred medical expenses which are likely to be required on a continuing basis. [Eff]
(Auth: HRS §346-14; 42 C.F.R. §§430.25, 435.301, 435.310, 435.320, 435.322, 435.324) (Imp: HRS §346-14; 42 C.F.R. §§430.25, 435.301, 435.310, 435.320, 435.322, 435.324)

§17-1730.1-11 Income requirements. (a) The maximum allowable countable income, prior to spenddown, determined under the provisions of chapter 17-1724.1 for eligibility under this chapter is:

- (1) Three hundred percent of the Federal Poverty Level for a child, or pregnant woman; or
- (2) For an aged, blind, or disabled individual, no maximum shall be considered. Unlimited for an aged, blind, or disabled individual.

(b) The amount of the individual's monthly countable income that exceeds the medically needy income standard of a household of applicable size shall be the excess income amount.

(c) The medically needy income standard as determined by the department in compliance with federal regulations related to the financial assistance program, shall serve as the maximum retainable income for an individual or household of applicable size.

[Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.2 435.602, 435.811, 435.814, 435.831; 45 C.F.R. 233.20) (Imp: HRS §346-14; 42 C.F.R. §§435.2 435.602, 435.811, 435.814, 435.831; 45 C.F.R. 233.20)

§17-1730.1-12 Asset requirements. The countable assets of an individual shall follow the personal reserve requirements described in chapter 17-1719 and the provisions under chapter 17-1725.1 for a household of applicable size. [Eff] (Auth: HRS §346-14; 42 C.F.R. §§430.25, 435.602, 435.840, 435.843, 435.845) (Imp: HRS §346-14; 42 C.F.R. §§435.2, 435.602, 435.840, 435.843, 435.845)

§17-1730.1-13 Spenddown calculation for continued eligibility. (a) An individual's excess income is the countable income which exceeds the medically needy income standard for the household of applicable size.

(b) Medical expenses incurred by an individual or financially responsible relative not subject to payment by a third party shall be deducted from the excess income in the following order:

- (1) Expenses for Medicare and other health insurance premiums, deductibles or co-insurance charges including enrollment fees and co-payments. Payments made quarterly or for longer intervals shall be pro-rated on a monthly basis.
 - (2) Necessary medical and remedial services recognized under State law but not included in the department's medical assistance plan to include expenses prior to the month of application not previously considered that remain a liability.
 - (3) Necessary medical and remedial services that exceed the department's medical assistance plan in regards to amount, duration or scope of services to include expenses prior to the month of application not previously considered that remain a liability.
- (c) An employer's contribution to a health plan and any premium voluntarily paid in whole or in part by someone other than the individual shall not be deducted from excess income.
- (d) Evidence of medical services received shall be required to determine eligibility for a given month.
- (e) The number of unborn child(ren) shall be included in the household for a pregnant woman only.
[Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.2, 435.831) (Imp: HRS §346-14; 42 C.F.R. §§435.2, 435.831)

§§17-1730.1-14 to 17-1730.1-18 (Reserved).

SUBCHAPTER 3

FREEDOM OF CHOICE, ENROLLMENT, BENEFITS, AND DISENROLLMENT

§17-1730.1-19 Purpose. This subchapter addresses and refers to the provisions of freedom of choice, enrollment, benefits, and disenrollment for an individual who is eligible in accordance with this

chapter. [Eff] (Auth: HRS §346-14; 42 C.F.R. §435.2) (Imp: HRS §346-14; 42 C.F.R. §430.25)

§17-1730.1-20 Freedom of choice. (a) An eligible child or pregnant woman, described in section 17-1730.1-11(a)(1), and an aged, blind and disabled individual described in chapter 17-1719 with the exception of those described in section 17-1735.1-2(a) shall be provided a choice of a health plan and a provider as described in chapter 17-1720.1.

(b) An eligible aged, blind or disabled individual described in section 17-1735.1-2(a) shall choose a department approved provider described in section 17-1736-3.

[Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.2, 431.51, 438.52, 447.51) (Imp: HRS §346-14; 42 C.F.R. §§435.2, 431.51, 438.52, 447.51)

§17-1730.1-21 Enrollment. (a) The effective date of coverage or enrollment is the date on which the spenddown amount was met.

(b) An individual eligible in accordance with this chapter, with the exception of an individual identified in section 17-1735.1-2(a), shall be enrolled in a health plan as described in chapter 17-1720.1.

(c) An eligible individual described in section 17-1735.1-2(a) shall not be enrolled into a health plan and services shall be provided on a fee-for-service basis. [Eff] (Auth: HRS §346-14; 42 C.F.R. §435.2, 431.10, 438.50) (Imp: HRS §346-14; 42 C.F.R. §435.2, 431.10, 438.50)

§17-1730.1-22 Benefits. (a) An individual eligible in accordance with this chapter, with the exception of those described in section 17-1735.1-2(a), shall be provided a standard benefits package by a participating health plan and other services when appropriate as described in chapter 17-1720.1.

(b) An eligible individual described in section 17-1735.1-2(a) shall be provided benefits under the fee-for-service provisions described in chapter 17-1737, with the exception of services identified in section 17-1735.1-3(b). [Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.2, 431.10, 438.6, 440.1)

(Imp: HRS §346-14; 42 C.F.R. §§435.25, 431.10, 438.6, 440.1)

§17-1730.1-23 Disenrollment from a health plan.
An enrollee shall be disenrolled from a health plan under the provisions as described in chapter 17-1720.1. [Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.2 431.40, 438.56) (Imp: HRS §346-14; 42 C.F.R. §§435.2 431.40, 438.56)

§§17-1730.1-24 to 17-1730.1-28 (Reserved)."