

18. Chapter 1711 is repealed.

19. Chapter 1711.1 of Title 17, Hawaii Administrative Rules, entitled "Processing of Applications For Medical Assistance", 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 1711.1

PROCESSING OF APPLICATIONS FOR MEDICAL ASSISTANCE

Subchapter 1 General Provisions

§17-1711.1-1 Purpose

§17-1711.1-2 Availability of program information

§§17-1711.1-3 to 17-1711.1-7 (Reserved)

Subchapter 2 Applicants

§17-1711.1-8 Purpose

§17-1711.1-9 Who may apply

§17-1711.1-10 Individuals who are not required to apply

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§17-1711.1-12 Authorized representatives

§17-1711.1-13 Applicant rights

§17-1711.1-14 Applicant responsibilities

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### Subchapter 3 Application process

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- §17-1711.1-21 Filing an application for medical assistance
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- §17-1711.1-32 Determination of eligibility for Medicaid
- §17-1711.1-33 Effective date of eligibility
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- §§17-1711.1-35 to §17-1711.1-39 (Reserved)

Historical Note: This chapter is based substantially upon repealed chapter 1711. [Eff 8/1/94; 01/29/96; am 06/19/00; am 12/03/01; am 02/16/02; am 05/10/03; am 07/10/06; am 01/31/09; am 06/11/09; R ]

## SUBCHAPTER 1

### GENERAL PROVISIONS

§17-1711.1-1 Purpose. This chapter describes the application process for medical assistance.

[Eff ] (Auth: HRS §§346-14, 346-29, 346-53; 42 C.F.R. §435.905, 435.907) (Imp: HRS §346-29; 42 C.F.R. §435.905, 435.907)

§17-1711.1-2 Availability of program information. (a) The department must provide the following information to any individual who requests it:

- (1) Eligibility requirements;
- (2) Available medical assistance services; and
- (3) Rights and responsibilities of an individual with respect to the State's medical assistance programs.

(b) The information listed in subsection (a) shall be:

- (1) Available in paper format, electronic format including through an internet web site, and orally; and
- (2) Provided in plain language and in a manner that is accessible and timely.

(c) An individual who is limited English proficient shall be provided language assistance services at no cost to the extent required by Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d, et seq.) to access the information listed in subsection (a).

(d) An individual living with disabilities shall be provided access to auxiliary aids and services at no cost in accordance with the Disabilities Act and section 504 of the Rehabilitation Act to access the information listed in subsection (a).

[Eff ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §435.905) (Imp: HRS §346-29, 42 C.F.R. §435.905)

§17-1711.1-3 TO §17-1711.1-7 (Reserved).

## SUBCHAPTER 2

## APPLICANTS

§17-1711.1-8 Purpose. This subchapter describes the rights and responsibilities of an individual applying for participation in a medical assistance program. [Eff ] (Auth: HRS §346-14; 42 C.F.R. §§435.906, 435.907, 435.908) (Imp: HRS §346-14, 42 C.F.R. §§435.906, 435.907, 435.908)

§17-1711.1-9 Who may apply. The department must accept an application for medical assistance and any documentation required to establish eligibility from an applicant, an adult who is in the applicant's household or family, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant. [Eff ] (Auth: HRS §346-14; 42 C.F.R. §§435.906, 435.907, 435.908) (Imp: HRS §346-14, 42 C.F.R. §§435.906, 435.907, 435.908)

§17-1711.1-10 Individuals who are not required to apply. The following individuals shall be automatically determined eligible for Medicaid:

- (1) A newborn up to one year of age born to a Medicaid beneficiary mother, including a mother receiving only emergency medical services under chapter 17-1723.1;
- (2) An individual receiving Title IV-E foster care or kinship guardianship payments who is:
  - (A) Under twenty-one years of age;
  - (B) Certified by a social worker of the department to be eligible for Title IV-E foster care maintenance or kinship guardianship payments; and
  - (C) Placed in a licensed or authorized foster home or child caring institution that is appropriately supervised by a

- licensed child placement agency or the State family court; or
- (3) An individual covered under a Title IV-E Adoption Assistance Agreement, in effect with any state or Tribe regardless of whether adoption assistance is being provided or a temporary or other judicial decree of adoption has been issued who:
- (A) Is under twenty-one years of age; and
  - (B) Resides in the state in a subsidized adoptive home. [Eff ]
- (Auth: HRS §346-14; 42 C.F.R. §§435.117, 435.118, 435.145, 435.403, 435.903) (Imp: 42 C.F.R. §§435.117, 435.145, 435.403, 435.903)

§17-1711.1-11 Application counselors. (a) The department shall provide assistance to any individual seeking help with the medical assistance application or annual redetermination process in person, over the telephone, and online, in a manner that is accessible to individuals with disabilities and those who are limited English proficient, consistent with subsections 17-1711.1-2(b), (c) and (d).

- (b) The department may choose to designate organizations, subject to certification by the department or designee to provide assistance to an individual with the application or redetermination process, to include but not be limited to:
- (1) Completion or submission of an application or redetermination form for medical assistance;
  - (2) Interaction with the department on the status of the application or redetermination;
  - (3) Assistance with responses to the department; and
  - (4) Case management following the initial approval and subsequent redeterminations in compliance with all federal requirements.

(c) Application counselors shall not sign forms or receive notices on behalf of the individual unless the individual appoints the application counselor as the individual's authorized representative under section 17-1711.1-12.

(d) The application counselor must be:

- (1) Authorized and registered by the department or its designee to provide assistance at application and subsequent redeterminations;
- (2) Authorized by the applicant to function as an application counselor on their behalf;
- (3) Effectively trained in eligibility and benefit rules and regulations for all medical assistance and insurance affordability programs operated in the State; and
- (4) Trained in and subject to applicable federal and State laws and regulations regarding safeguarding and confidentiality of information and conflicts of interest.

(e) Should the department elect to certify application counselors, the department shall establish:

- (1) A designated web portal for the exclusive use by certified application counselors for purposes of providing assistance under this section;
- (2) A secure mechanism to ensure that certified application counselors are able to perform only those activities for which they are certified; and
- (3) Procedures to ensure that an individual applying for medical assistance:
  - (A) Is informed of the functions and responsibilities of a certified application counselor; and
  - (B) Is able to authorize an application counselor to receive confidential information about the individual related to the individual's application for or annual redetermination of Medicaid.

(f) Services provided by a certified application counselor shall be free of charge.

[Eff \_\_\_\_\_] (Auth: HRS §346-14; 42 C.F.R. §435.908) (Imp: HRS §346-29, 42 C.F.R. §435.908)

§17-1711.1-12 Authorized representatives. (a)

An individual applying for medical assistance may designate an individual or organization to be an authorized representative to act on their behalf to assist with an application, a redetermination of eligibility, and other on-going communications with the department.

(b) The designation of an authorized representative must be in writing and signed by the individual. Legal documentation of authority to act on behalf of an individual under State law, to include a court order establishing legal guardianship, or power of attorney, shall serve in the place of a written authorization.

(c) The authority of an authorized representative is valid until:

- (1) The applicant or beneficiary withdraws the authorization by notifying the department that the representative is no longer authorized to act on the applicant's or beneficiary's behalf;
- (2) There is a change in the legal document of authority to act on the applicant's or beneficiary's behalf; or
- (3) The authorized representative informs the department that he is no longer acting as the individual's authorized representative.

(d) An authorized representative may be authorized to:

- (1) Sign an application on behalf of an applicant;
- (2) Receive copies of an individual's notices and other communications from the department;
- (3) Act on behalf of the individual in all other matters with the department; and

(4) Complete and submit redetermination forms.

(e) An authorized representative must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding the applicant or beneficiary provided by the department.

(f) An authorized representative who is a provider, staff member or volunteer of an organization must agree to sign an agreement to comply with regulations relating to:

- (1) Confidentiality of information (42 C.F.R. part 431, subpart F);
- (2) Prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf (42 C.F.R. §447.10);
- (3) Other relevant State and federal laws concerning conflicts of interest and confidentiality of information; and
- (4) Must meet the authentication and data security standards required under State and federal law or otherwise specified by the department.

(g) The department shall accept electronic signatures, including telephonically recorded signatures and handwritten signatures transmitted by facsimile or other electronic transmission, and must accept such signatures through all of the methods specified in section 17-1711.1-21.

[Eff ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §435.923) (Imp: HRS §346-29, 42 C.F.R. §435.923)

§17-1711.1-13 Applicant rights. (a) The department must provide an individual the opportunity to apply for Medicaid without delay.

(b) The department shall inform the individual of their right to language access services, and auxiliary aids and services for individuals with disabilities, and how to access those services.

(c) The department shall not require an in-person interview as part of the application process

for a determination of eligibility using MAGI-based income methodology.

(d) An individual may withdraw, modify or terminate a submitted application as described in section 17-1711.1-22.

(e) An individual eligible under more than one medical assistance program shall be afforded the opportunity to select the program of the individual's choice.

(f) A request for an administrative hearing may be submitted by the individual or the individual's authorized representative when the individual is not satisfied with the department's eligibility determination, under the provisions of chapter 17-1703.1. [Eff ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §§435.404, 435.906, 435.907) (Imp: HRS §346-29; 42 C.F.R. §§435.404, 435.905, 435.906, 435.907)

§17-1711.1-14 Applicant responsibilities. (a)

The individual shall:

- (1) Complete the application form(s) as prescribed by the department for medical assistance;
- (2) Provide all information requested by the department to establish eligibility and submit required documents as appropriate within the time period specified by the department;
- (3) Apply for and develop potential sources of income and assets as applicable; and
- (4) Assign any benefits due to a possible third party liability, including referral for child support and initiation of a referral to establish paternity as required under the provisions of chapter 17-1705.

(b) An individual who fails to meet the requirements of subsection (a) shall be ineligible for medical assistance. [Eff ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §435.907) (Imp: 42 C.F.R. §435.907)

§17-1711.1-15 to §17-1711.1-19 (Reserved).

### SUBCHAPTER 3

#### APPLICATION PROCESS

§17-1711.1-20 Purpose. This subchapter describes the application process to determine eligibility for participation in a medical assistance program. [Eff ] (Auth: HRS §346-14; 42 C.F.R. §§435.906, 435.907) (Imp: HRS §346-14, 42 C.F.R. §§435.906, 435.907)

§17-1711.1-21 Filing an application for medical assistance. (a) The application process shall begin when a completed application for medical assistance is received by the department or designee and ends with the department's issuing an eligibility determination to the applicant.

(b) The application shall be used for all insurance affordability programs and may be submitted according to the applicant's preference by one of the following methods:

- (1) Via the department's designated internet web site(s);
- (2) By telephone;
- (3) Via the United States Postal Service;
- (4) In person; and
- (5) Through other commonly available electronic means.

(c) The date an application is received by the department or designee shall be considered the date for a determination of medical assistance.

(d) An individual applying for assistance on a basis other than Modified Adjusted Gross Income (MAGI) methodology may be required to provide additional

information, as determined by the department, in order to complete an eligibility determination.

(e) The department may request a non-applicant's SSN provided that:

- (1) The provision of the SSN is voluntary;
- (2) The SSN is used only to determine an applicant's eligibility for Medicaid or other insurance affordability program or for a purpose directly connected to the administration of the State plan; and
- (3) At the time the SSN is requested, the agency notifies and ensures the applicant, or person acting on the applicant's behalf, understands that the provision of the non-applicant's SSN is voluntary and how the information regarding the SSN will be used.

(f) The application shall be signed under penalty of perjury by the applicant, adult included in the household for an applicant who is a minor, authorized representative, or an individual acting on behalf of an incompetent or incapacitated applicant in accordance with this chapter. [Eff ]  
(Auth: HRS §§346-14, 346-29, 346-53; 42 C.F.R. §435.907) (Imp: HRS §346-29; 42 C.F.R. §435.907)

§17-1711.1-22 Application withdrawn or discontinued. (a) An individual may withdraw or discontinue an application in writing, verbally by telephone, in person or through other commonly available electronic means.

(b) Requests for application withdrawal shall be documented in the individual's record and a confirmation notice of withdrawal sent in accordance with chapter 17-1713.1.

(c) The department may discontinue an application for medical assistance prior to an eligibility determination for any of the following reasons:

- (1) Death of the applicant, and:

- (A) Information provided at the point of application is insufficient to determine eligibility; or
  - (B) No other individual is designated or able to continue the application process on behalf of the deceased;
- (2) Applicant whereabouts is unknown.
- (d) In the event an application is discontinued, an appropriate notice shall be sent to confirm the department's action under the provisions of chapter 17-1713.1.
- (e) An individual whose application was denied or discontinued and reapplies within ninety days from the date of denial or discontinuation shall be able to:
- (1) Submit updated or supplemental information on the original application form as applicable with a new date of application entered; and
  - (2) The updated application shall be processed in the same manner as a new application.  
[Eff                   ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §§435.907, 435.911, 435.912) (Imp: HRS §346-29; 42 C.F.R. §§435.907, 435.911, 435.912)

§17-1711.1-23 Verification prior to approval.

- (a) The department shall inform the individual of its intent to obtain and use information from other federal and State programs, as applicable and available, to verify information required to make an eligibility determination for Medicaid and other insurance affordability programs, including, but not limited to:
- (1) U.S. citizenship or non-citizen status and identity as required by chapter 17-1714.1;
  - (2) Assignment of possible third party liability, including referral for child support and initiation of a referral to establish paternity as required by chapter 17-1705;

- (3) Date of birth and gender;
- (4) Social security number as required by chapter 17-1714.1;
- (5) Gross non-exempt income of the household as required by chapter 17-1724.1;
- (6) Non-exempt resources of the household as required by chapter 17-1725.1;
- (7) Blindness or disability as determined in accordance with the provisions of chapter 17-1719;
- (8) Prior determination of blindness or disability verified by the:
  - (A) Social Security Administration (SSA);
  - (B) Department's Aid to Disabled Review Committee (ADRC); or
  - (C) Department's consultant ophthalmologist with the vocational rehabilitation and services for the blind division at Ho'opono.

(b) The department must obtain and accept eligibility information through an electronic service and other means as determined, to the extent the information is available, under the provisions of chapter 17-1714.1.

(c) The department shall only require documentation of information that is unavailable through or not reasonably compatible with other sources to complete a determination of eligibility for medical assistance or other insurance affordability or benefit programs.

(d) An applicant, individual, or organization who is authorized to apply on behalf of the applicant who has been notified by the department to submit additional information to establish eligibility, shall be given a minimum of fifteen calendar days, which may be extended as determined necessary, to provide the information or verifying documentation from the date the request is sent by the department.

[Eff ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §§435.406, 435.407, 435.945, 435.949) (Imp: 42 C.F.R. §§435.406, 435.407, 435.945, 435.949)

§17-1711.1-24 TO §17-1711.1-28 (Reserved).

#### SUBCHAPTER 4

#### ELIGIBILITY DETERMINATION PROCESS

§17-1711.1-29 Purpose. This subchapter describes the process to determine eligibility for an individual who is applying for participation in a medical assistance program. [Eff ]  
(Auth: HRS §346-14; 42 C.F.R. §435.907)  
(Imp: HRS §346-14, 42 C.F.R. §435.907)

§17-1711.1-30 Presumptive eligibility submitted by a qualified hospital. (a) The department shall provide Medicaid to certain individuals who are determined presumptively eligible by a qualified hospital.

(b) Approval for presumptive eligibility shall be limited to the coverage groups as determined by the department.

(c) The department shall establish standards, policies, and measures of quality outcomes to qualify, and as appropriate disqualify, hospitals approved to determine presumptive eligibility.

(d) The applicant shall be subject to departmental fraud penalties or recovery requirements for false or withheld information. (Auth: HRS §§346-14, 346-29; 42 C.F.R. §§435.906, 435.907, 435.908, 435.1110) (Imp: HRS §346-29; 42 C.F.R. §§435.906, 435.907, 435.908, 435.1110)

§17-1711.1-31 Expedited processing for emergency medical services. (a) An application shall be processed within two working days when:

- (1) The applicant is suffering from an emergency medical condition for which covered medical services are available; and

- (2) Failure to receive immediate treatment would result in any of the following consequences;
  - (A) Serious risk of disease;
  - (B) Threat to life or vital function;
  - (C) Serious health complication; or
  - (D) Serious irreparable harm.
- (b) The applicant shall be required to submit the following:
  - (1) An application for medical assistance; and
  - (2) The prescribed departmental form, signed by a licensed physician, advance practice registered nurse or dentist, certifying the need for immediate medical treatment based on any of the reasons in subsection (a) and that the individual will not be treated unless the department determines eligibility for medical assistance.
- (c) The applicant shall be subject to departmental fraud penalties or recovery requirements for false or withheld information.  
[Eff ] (Auth: HRS §346-14; 42 C.F.R. §435.911, 435.930, 435.945) (Imp: 42 C.F.R. §435.911, 435.930, 435.945)

§17-1711.1-32 Determination of eligibility for Medicaid. (a) The department shall determine eligibility according to federal and State regulations and policies. The decision regarding eligibility or ineligibility shall be supported by facts in the applicant's record. Each application shall be determined as eligible or ineligible unless the application is withdrawn or discontinued under section 17-1711.1-22.

- (b) Timely dispositions of eligibility or ineligibility shall be made within:
  - (1) Ninety days from the date of application for an applicant applying for medical assistance on the basis of disability including applications for long-term care; or
  - (2) Forty-five days from the date of application for all other applicants.

(c) A determination of eligibility or ineligibility shall be completed within the applicable time standards except in unusual circumstances such as:

(1) A delay or failure of an applicant or appropriate required agency to take required action; or

(2) An administrative or other type of emergency beyond the department's control.

(d) The department shall not use the time standards specified in paragraph (b) of this section as a waiting period before determining eligibility or for a denial due to failure of the department to determine eligibility timely.

(e) A delay beyond the applicable time standard under paragraph (b) of this section attributed to the department shall not result in the withholding of medical assistance from the applicant. A presumption of eligibility for medical assistance shall be made:

(1) Effective the ninety-first day for an applicant applying on the basis of disability including for long-term care, or on the forty-sixth day for any other applicant until a determination of eligibility is completed; and

(2) The reason for the delay shall be documented in the applicant's record.

(f) For an applicant subject to MAGI methodology who meets the financial requirements for eligibility and for whom the department is providing a reasonable opportunity to provide documentation of citizenship or immigration status, the department, consistent with the applicable timeliness standard, shall furnish medical assistance.

(g) For an applicant who is applying for a MAGI-excepted group and for whom additional information is required to determine eligibility, eligibility shall be determined under a MAGI group until the determination of eligibility on any other basis is completed.

(h) For an individual determined ineligible for Medicaid, the department shall transfer the

individual's application information for other insurance affordability programs as appropriate pursuant to 42 C.F.R. §435.1200(e).

[Eff ] (Auth: HRS §§346-14, 346-29; 42 C.F.R. §§435.907, 435.911, 435.912, 435.914, 435.945, 435.1200) (Imp: HRS §346-29; 42 C.F.R. §§435.907, 435.911, 435.912, 435.914, 435.945, 435.1200)

§17-1711.1-33 Effective date of eligibility.

(a) The effective date of eligibility for an applicant approved for medical assistance shall be one of the following:

- (1) The date the application is received by the department; or
- (2) For an individual approved as medically needy, the date on which appropriate medical expenses, in accordance with chapter 17-1730.1, were incurred; or
- (3) The date on which all applicable eligibility requirements are met by the applicant; or
- (4) For a newborn of a beneficiary mother, the date of the child's birth;
- (5) For a request for retroactive medical coverage of eligible services, the applicant shall:
  - (A) Include the request for retroactive coverage on the application; or
  - (B) Submit a written request to the department within thirty calendar days from the date of the eligibility determination; and
  - (C) The effective date of coverage for eligible retroactive services received shall be no earlier than the first day of the third month prior to the month the application is received by the department for individuals applying for coverage of long-term care services or ten calendar days immediately prior to the date the application is received by

the department for all other individuals.

(b) If the individual is found to be ineligible for the month of application, the effective date of eligibility shall be the date of the subsequent month in which all eligibility requirements are met by the individual. [Eff ] (Auth: HRS §346-14; 42 C.F.R. §§430.25; 435.915) (Imp: HRS §346-14; 42 C.F.R. §§430.25; 435.915)

§17-1711.1-34 Notice of disposition of the application. (a) A notice of disposition of the application shall be sent under the provisions of chapter 17-1713.1.

(b) If determined eligible for medical assistance, the individual shall be issued a Medicaid identification card by the department as appropriate.

(c) For an individual determined ineligible for Medicaid, the department shall transfer the individual's application information for other insurance affordability programs as appropriate pursuant to 42 C.F.R. §435.1200(e).

[Eff ] (Auth: HRS §346-14; 42 C.F.R. §§431.10, 435.911, 435.912, 435.917, 435.1200) (Imp: HRS §346-14; 42 C.F.R. §§431.10, 435.911, 435.912, 435.917, 435.1200)

§17-1711.1-35 to §17-1711.1-39 (Reserved)."