22. Chapter 1713 is repealed.

23. Chapter 1713.1 of Title 17, Hawaii Administrative Rules, entitled "Notices", 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 1713.1

NOTICES

§17-1713.1-1 Purpose
§17-1713.1-2 Notice of eligibility or level of benefits and services
§17-1713.1-3 Use of electronic notices
§17-1713.1-4 Notice content
§17-1713.1-5 Timely and adequate notice
§17-1713.1-6 Termination of eligibility
§§17-1713.1-7 to 17-1713.1-11 (Reserved)

Historical Note: This chapter is based substantially upon repealed chapter 17-1713. [Eff 08/01/94; am 01/29/96; am 03/30/96; am 10/26/01; R]

§17-1713.1-1 Purpose. The purpose of this chapter is to establish the circumstances, conditions, and deadlines under which the department shall notify an individual regarding a determination of eligibility, level of benefits or services, spenddown or premium amounts and adverse actions. [Eff] (Auth: HRS §346-14; 42 C.F.R. §§431.206; 431-214, 431.917, 435.918) (Imp: HRS §346-14; 42 C.F.R. §§431.206; 431-214, 431.917, 435.918)

§17-1713.1-2 Notice of eligibility, or level of benefits and services. (a) The department shall provide an individual with a written notice of any decision by the department or designee affecting the individual's eligibility for benefits and services, approval, denial, termination, or suspension of benefits or services.

(b) The notice shall be written in plain language and be accessible to a person who is limited English proficient or has a disability.

(c) The notice content shall include that an individual's information may be transferred to all applicable insurance affordability programs.

(d) Effective January 1, 2015, for MAGI determinations, the department shall provide a combined eligibility notice in coordination with the Health Insurance Exchange. [Eff] (Auth: HRS §346-14; 42 C.F.R. §§431.206, 435.917, 435.1200) (Imp: HRS §346-14; 42 C.F.R. §§431.206, 435.917, 435.1200)

§17-1713.1-3 Use of electronic notices. (a) An individual shall be provided a choice to receive notices and information in electronic format in lieu of regular mail. When an electronic format is requested, the department shall:

(1) Confirm by regular mail the individual's election to receive notices electronically;
(2) Inform the individual of the right to change the election, at any time, to regular mail;
(3) Post notices to the electronic account within one business day of notice generation;
(4) Send an email or other electronic communication to alert the individual of the posting of a notice to their electronic account. No confidential information shall be contained in the email or electronic alert;
(5) If undeliverable, send the notice by regular mail within three (3) business days of the date of the failed electronic communication; and
(6) Provide, upon request, a paper-based notice sent through regular mail of any notice posted to the electronic account.

[Eff] (Auth: HRS §346-14; 42 C.F.R. §435.918) (Imp: HRS §346-14; 42 C.F.R. §435.918)

§17-1713.1-4 Notice content. (a) A notice of approved eligibility includes, but is not limited to:

(1) The basis and effective date of eligibility;
(2) The circumstances and procedures under which reporting is required;
(3) If applicable, the amount of medical expenses which must be incurred to establish eligibility for medically needy spenddown;
(4) Information on the level of benefits and services approved, including, any premiums, enrollment fees and cost sharing; and
(5) Information on administrative appeal rights as described in chapter 17-1703.1 to appeal eligibility or approved level of benefits and services..

(b) A notice to deny or take other action affecting an individual's eligibility or level of benefits and services, based on the individual's household income at or below the applicable MAGI standard shall contain information on the basis for eligibility other than the MAGI standard and how to request a determination on a MAGI-excepted basis. [Eff] (Auth: HRS §346-14; 42 C.F.R. §§431.210, 435.917) (Imp: HRS §346-14; 42 C.F.R. §§431.210, 435.917)

§17-1713.1-5 Timely and adequate notice. (a) Prior to the implementation of any adverse action which affects an individual, a timely and adequate notice shall be sent.

(b) A notice of adverse action shall be considered timely when sent:

(1) At least fifteen (15) calendar days prior to the effective date of adverse action except as described in paragraph (c). When a new address is reported to the department by the individual within the eligible period, a new notice shall be re-issued; or
(2) Five (5) calendar days prior to the effective date of adverse action when the department has evidence of probable fraud by the individual.

(c) Adequate notice shall be sent not later than the date of action when:

(1) The department has factual information confirming the death of an individual;

(2) The department received a clear written statement signed by the individual or authorized representative that:

(A) Medical assistance is no longer wanted; or

(B) Provides information that necessitates termination or reduction of services and indicates the individual understands that the consequences of supplying the information is the reduction or termination of assistance;

(3) The individual has been admitted or committed to a public institution ineligible to receive medical assistance;

(4) The individual has been placed in a long-term care facility or qualified home and community based home;

(5) The individual's whereabouts are unknown and mail sent to the individual has been returned by the post office indicating no known forwarding address;

(6) The department has verified the individual's receipt of medical assistance in another jurisdiction, state, territory or commonwealth;

(7) A change in the level of medical care is prescribed by the individual's physician; or

(8) Involves an adverse action made in regards to preadmission screening requirements.

[Eff] (Auth: HRS §346-14; 42 C.F.R. §§431.206, 431.211, 431.213, 431.214, 435.917) (Imp: HRS §346-14; 42 C.F.R. §§431.206, 431.211, 431.213, 431.214, 435.917)

§17-1713.1-6 Termination of eligibility. (a) The department shall terminate an individual's eligibility and send notice of the adverse action when:

(1) A signed, written request for termination is received from the eligible individual;

(2) The department has verified the death of an eligible individual;

(3) The eligible individual is admitted or committed to a public institution;
(4) The eligible individual is no longer residing in the state;
(5) The eligible individual's whereabouts are unknown;
(6) The eligible individual, when required to meet the asset standard, fails to provide the department with verification to determine the amount of the assets;
(7) The eligible individual, whose eligibility determination is not based on the MAGI standard, fails to provide the department with verification to determine the amount of income;
(8) The eligible individual fails to apply for and develop potential sources of assets and income when required;
(9) An eligibility redetermination is not completed because of the eligible individual's failure to provide the department with requested verification or to provide a completed eligibility redetermination form when required;
(10) The eligible individual fails to meet any of the necessary requirements of the eligibility group; or
(11) The eligible individual fails to cooperate or provide information to federal or state personnel who review the decisions regarding eligibility for assistance.

[Eff] (Auth: HRS §346-14; 42 C.F.R. §§435.903, 435-916) (Imp: HRS §§346-14; 42 C.F.R. §§435.903, 435-916)

§§17-1713.1-7 to 17-1713.1-11 (Reserved)."