

91. Section 17-1737-2, Hawaii Administrative Rules, is repealed as follows:

[“§17-1737-2 Definitions. For the purpose of this chapter:

“Department” means the department of human services (DHS).

“Domiciliary care home” means any facility which provides twenty-four hour living accommodations, personal care services, and appropriate health care, as needed, to adults unable to care for themselves by persons unrelated to the recipient in licensed adult residential care homes or other care homes regulated by the department of health. A domiciliary care home does not provide rehabilitative treatment services.

“Drug formulary” means a listing of prescribed drug items pursuant to 42 U.S.C. 1396r(8)(d)(4) for which payment may be made by the Hawaii Medicaid program.

“Emergency” means a situation where a person's life or health is in imminent danger as the result of illness or injury and specialized services must be provided without delay.

“Emergency medical condition” means the sudden onset of a medical condition that manifests itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances and/or symptoms of substance abuse) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of emergency services or immediate medical attention to result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to body functions; or
- (3) Serious dysfunction of any bodily organ or part;
- (4) Serious harm to self or others due to an alcohol or drug abuse emergency;
- (5) Injury to self or bodily harm to others; or
- (6) With respect to a pregnant woman who is

having contractions:

- (A) That there is adequate time to effect a safe transfer to another hospital before delivery; or
- (B) That transfer may pose a threat to the health or safety of the woman or her unborn child.

"Emergency services" means covered inpatient and outpatient services that are needed to evaluate or stabilize an emergency medical condition that is found to exist using a prudent layperson standard.

"FFP" means federal financial participation.

"HCPCS" means the Health Care Financing Administration's (HCFA) Common Procedural Coding System.

"HMO" means a health maintenance organization providing a prepaid health plan to members such as the Kaiser foundation hospital, HMSA's community health program and health plan Hawaii.

"Health intervention" means an activity undertaken for the primary purpose of preventing, improving, or stabilizing a medical condition. Activities that are primarily custodial, or part of normal existence, or undertaken primarily for the convenience of the patient, family, or practitioner, are not considered health interventions.

"Health outcomes" means outcomes of medical conditions that directly affect the length or quality of a person's life.

"Informed consent" means a voluntary, knowing assent given in writing.

"Long term care" means services provided to a recipient by a medical institution such as a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, or any combination thereof.

"Medical condition" means a disease, an illness, or an injury. A biological or psychological condition that lies within the range of normal human variation is not considered a disease, illness, or injury.

"Medical necessity" refers to those procedures and services, as determined by the department, which

are considered to be necessary and for which payment will be made. Medically necessary health interventions (services, procedures, drugs, supplies, and equipment) must be used for a medical condition. There shall be sufficient evidence to draw conclusions about the intervention's effects on health outcomes. The evidence shall demonstrate that the intervention can be expected to produce its intended effects on health outcomes. The intervention's beneficial effects on health outcomes shall outweigh its expected harmful effects. The intervention shall be the most cost-effective method available to address the medical condition. Sufficient evidence is provided when evidence is sufficient to draw conclusions, if it is peer-reviewed, is well-controlled, directly or indirectly relates the intervention to health outcomes, and is reproducible both within and outside of research settings.

"Medical pensioner" means a person receiving medical assistance under the medical payments for pensioner's program.

"National accreditation organization" means, but is not limited to, the following national accreditation organizations for community mental health rehabilitative services:

- (1) The Council on Accreditation (COA);
- (2) The Commission on Accreditation of Rehabilitation Facilities (CARF); or
- (3) The Joint Committee on Accreditation of Healthcare Organizations (JCAHO).

"Program" means the medical assistance program (medicaid).

"Prudent layperson" refers to one who possesses an average knowledge of health and medicine.

"Prudent layperson standard" refers to the determination of a emergency medical condition based on the judgment of a prudent layperson.

"Public institution" means correctional facilities including, but not limited to, the prison and jail, and mental hospitals or facilities under the jurisdiction of a governmental unit.

"Qualified mental health professionals" or

"QMHP" means:

- (1) A psychiatrist licensed to practice medicine in the State of Hawaii in accordance with chapter 453, HRS, and who is certified or is eligible to be certified in psychiatry by the American Board of Psychiatry or Neurology;
- (2) A psychologist licensed in accordance with chapter 465, HRS;
- (3) A clinical social worker in behavioral health licensed in accordance with chapter 467E, HRS;
- (4) An advance practice registered nurse (APRN) licensed in accordance with chapter 457, HRS; or
- (5) Any other person as determined by the department of human services.

"Respiratory therapist" means a person qualified to perform respiratory therapy as exemplified by certification by the national board for respiratory care (NBRC) or a person experienced in the performance of respiratory therapy services who is employed by a medicaid certified agency or provider to specifically provide respiratory therapy services.

"Respiratory therapy" means the performance of preventive, maintenance, and rehabilitative airway-related techniques and procedures including application of medical gasses, humidity, and aerosols, intermittent positive pressure, continuous artificial ventilation, the administration of drugs through inhalation, patient care and instruction, and the provision of consultation to other health personnel.

"Stock" means articles in supply or on hand.

"Transportation" means payment for the cost of travel or transfer by taxicab, air and ground ambulance, out-of-state or inter-island airline to, from, or between medical facilities and other providers of health services.

"UCC" or "utilization control committee" means the committee that controls admissions and continued stay in acute hospital facilities based on the utilization control plan approved by the federal

government for Hawaii's medical assistance program."]
[Eff 08/01/94; am 01/29/96; am 07/06/99; am 03/11/04;
am 02/07/05; am 05/05/05; am 06/25/12; R]
(Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C.
§1396r(8)(d)(4) and (5))

92. Section 17-1737-11, Hawaii Administrative Rules, is repealed as follows:

["§17-1737-11 Definitions. For the purpose of this subchapter:

"Board to determine and certify mental disability" means a board of licensed psychologists or licensed physicians whose specialty is psychiatry designated and paid for by the department.

"Consultation" means an opinion or advice requested by a practicing physician from a psychiatrist or psychologist.

"Designated provider" means a psychiatrist or a psychologist designated by the department to conduct examinations for mental impairment.

"Direct supervision" means a psychiatrist shall be present and available in an inpatient facility or outpatient clinic to provide assistance and direction to non-physician therapists.

"Family therapy" means treatment involving three or more members of the same family and shall be considered a form of group therapy.

"Individual psychotherapy" means a face to face interaction between two parties, the therapist and the patient. The term encompasses a wide variety of therapies that differ in intensity and duration.

"Maintenance therapy" means psychiatric treatment of patients who do not require intensive psychiatric care, but who continue to require psychiatric medication and supportive care to maintain a functional state.

"Medical evaluation" means an evaluation by a physician to eliminate the possibility that the mental impairment is due to a physical illness.

"Physical illness" means medical conditions exclusive of those listed in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition-Revised, DSM III R).

"Psychiatric care" means an established mode of practice offering the most effective and humane treatment for the acutely ill.

"Psychiatric providers" means those individuals and facilities authorized to provide psychiatric services under the Medicaid program.

"Psychiatric service" may be used interchangeably with "psychiatric care."

"Substance abuse" means excessive use of substances that alter or impair consciousness.

"Treatment" means the process of psychotherapy where disorders are treated on a time limited basis and where symptomatic relief of an immediate crisis is the primary objective."] [Eff 08/01/94; am 09/14/98; am 06/25/12; R] (Auth: HRS §346-14) (Imp: 42 C.F.R. §§405.1011, 405.1020, 440.2, 440.50)

93. Section 17-1737-27, Hawaii Administrative Rules, is repealed as follows:

["§17-1737-27 Definitions. For the purpose of this subchapter:

"Active treatment" is a continuous program for each client which includes aggressive, consistent implementation of a program of specialized and generic training, specific therapies or treatments, activities, health services, and related services, as identified in an individualized plan of care:

- (1) For individuals with "Mental Illness" (MI) the plan shall be developed under and supervised by a physician. The prescribed components of the individualized active treatment program shall be provided by a physician or other qualified mental health professionals for the treatment of persons who are experiencing an acute episode of severe MI which necessitates twenty-four hour supervision by trained mental health personnel to diagnose or reduce the recipient's psychotic or neurotic symptoms which necessitated institutionalization, to improve the recipient's level of functioning and, whenever possible, to achieve the

recipient's discharge from inpatient status at the earliest possible time;

- (2) For individuals with "Mental Retardation or with related conditions" (MR), the individual program plan shall be developed and supervised by an interdisciplinary team that represents areas that are relevant to identifying the client's needs and to designing programs that meet the client's needs, and is directed towards:

- (A) The acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible; and
- (B) The prevention or deceleration of regression or loss of current optimal functional status. Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program; and

- (3) It does not include, in the case of a resident of a Nursing Facility (NF), services within the scope of services which the facility shall provide or arrange for its resident.

"Acuity level (or level of medical care)" means one of the following types of inpatient services: NF or ICF-MR.

"Applicant" means an individual whose written application for medicaid assistance has been submitted to the department but who has not received final action. The term includes an individual, who need not be alive at the time of application, but whose application is submitted through a representative or a person acting responsibly for the deceased individual.

"Attending physician" means a medical doctor (M.D.) or a doctor of osteopathy (D.O.) who orders and directs the services required to meet the care needs of a medicaid recipient in a long-term institutional

care facility. The attending physician may be a physician from a group practice who is designated as the primary physician or an alternate physician that has been delegated the role of the attending physician by the recipient's initial attending physician during the physician's absence.

"Clinical Nurse Specialist" means a registered professional nurse who is currently licensed to practice in the State and who meets one or two of the following conditions:

- (1) Has completed an earned graduate degree - master's degree or doctorate - related to an advanced area of clinical practice within the scope of nursing; and
- (2) Currently certified as a nurse specialist by a national nursing certifying organization.

"Dementia" refers to a primary diagnosis as described in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition, Revised (DSM-III-R) with the following diagnostic criteria:

- (1) Demonstrable evidence of impairment in short-term or long-term memory;
- (2) At least one of the following:
 - (A) Impairment of abstract thinking;
 - (B) Impaired judgement;
 - (C) Other disturbances of higher cortical function; and
 - (D) Personality change;
- (3) The disturbance in (1) or (2) significantly interferes with work or usual social activities or relationships with others;
- (4) Not occurring exclusively during the course of delirium; and
- (5) Either:
 - (A) Evidence from the history, physical examination, or laboratory tests, of a specific organic factor that is judged to be etiologically related to the disturbance; or
 - (B) In the absence of such evidence, an etiologic organic factor can be presumed if the disturbance cannot be

accounted for by any nonorganic mental disorder.

"Distinct part" or "DP" means an identifiable bed, room, ward, or building of a parent medical institution that is located on the site of the parent medical institution.

"Facility" means an institution such as a nursing facility or an intermediate care facility for the intellectually disabled or persons with related conditions ICF-ID, that furnishes health care services to inpatients.

"Feeding assistant" means an individual who has successfully completed a state-approved feeding assistant training program and who is paid by a nursing facility or is used under an arrangement with another agency or organization to feed nursing facility residents who have no complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral or IV feeding

"Freestanding" means a medical institution that is not a part of a parent medical institution or a medical institution that is separated geographically from the parent medical institution.

"Furnish," "furnishes," or "furnished" means items and services provided by or arranged and paid for through contractual agreement which are under the direct supervision of a provider of long-term institutional services.

"ICF-ID" means an intermediate care facility for the intellectually disabled or persons with related conditions.

"Inpatient" means a patient who has been admitted to a medical institution on recommendation of a physician and who is receiving room, board, and professional services in the NF or an ICF-MR, on a continuous twenty-four hours a day basis.

"Institution" or "institutional facility" means an establishment that furnishes food, shelter, and some treatment or services to four or more individuals unrelated to the individual who has, directly or

indirectly, an ownership interest of five per cent or more.

"Licensed health professional" means a physician, physician assistant, nurse practitioner, physical, speech or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"Long-term institutional services" means services provided to a recipient by a medical institution such as a nursing facility or intermediate care facility for the mentally retarded.

"Medical institution" means an institution that:

- (1) Is organized to provide medical care, including nursing and convalescent care;
- (2) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;
- (3) Is authorized under state law to provide medical care; and
- (4) Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services shall include adequate and continual medical care and supervision by a physician, registered nurse supervision, and services sufficient to meet nursing care needs.

"Mental illness" refers to a current primary or secondary diagnosis of a mental disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd Edition, Revised and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder).

"Mental retardation" refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period:

- (1) "General intellectual functioning" is defined as the results obtained by assessment with one or more of the

- individually administered general intelligence tests developed for the purpose of assessing intellectual functioning;
- (2) "Significantly subaverage intellectual functioning" is defined as approximately IQ seventy or below;
 - (3) "Adaptive behavior" is defined as the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for age and cultural group; and
 - (4) "Developmental period" is defined as the period of time between birth and the eighteenth birthday.

"Nurse aide" means any individual providing nursing or nursing-related services to residents in a nursing facility but does not include an individual:

- (1) Who is a licensed health professional; or
- (2) Who volunteers to provide such services without monetary compensation.

"Nurse practitioner" means a registered professional nurse who is currently licensed to practice in the state, and who meets one of the following conditions for practice in a NF or ICF-MR:

- (1) Is currently certified as a gerontological nurse practitioner by the American Nurses' Association; or
- (2) Has satisfactorily completed a formal one academic year educational program that:
 - (A) Prepares registered nurses to perform an expanded role in the delivery of care in the field of gerontology or mental retardation, whichever is appropriate;
 - (B) Includes at least four months (in the aggregate) of classroom instruction and a component of supervised clinical practice; and
 - (C) Awards a degree, diploma, or certificate to persons who successfully complete the program; or

- (3) Has successfully completed a formal educational program (for preparing registered nurses to perform an expanded role in the delivery of care in the field of gerontology or mental retardation, whichever is appropriate) that does not meet the above requirements of (2) of this definition, and has been functioning in an expanded role in the delivery of care in the respective fields of gerontology or mental retardation for a total of twelve months during the eighteen month period immediately preceding the effective date of appointment as a nurse practitioner by the facility administrator.

"Nursing facility" or "NF" means a free-standing or a distinct part of a facility that is licensed and certified as meeting the requirements of participation to provide skilled nursing, health-related care and rehabilitative services on a regular basis in an inpatient facility.

"Patient" means an applicant or recipient receiving needed professional services directed by the attending physician toward the maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.

"Persons with related conditions", such as epilepsy, cerebral palsy, or other developmental disabilities" are individuals who have a severe, chronic disability that meets all of the following conditions:

- (1) It is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) It is manifested before the person reaches age twenty-two;
- (3) It is likely to continue indefinitely;
- (4) It results in substantial functional limitations in three or more of the following areas of major life activity:
 - (A) Self-care;
 - (B) Understanding and use of language;
 - (C) Learning;

- (D) Mobility;
 - (E) Self-direction;
 - (F) Capacity for independent living; or
 - (G) Economic self sufficiency; and
- (5) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care treatment or other services which are individually planned and coordinated.

"Physician assistant" means a person who is currently approved and certified as a physician assistant by the state board of medical examiners, state department of regulatory agencies.

"Provider" means NF or ICF-MR facilities that furnish long-term institutional services on an inpatient basis to recipients under a provider agreement with the department.

"QMRP" means a qualified mental retardation professional who has at least one year of experience working directly with persons with mental retardation or related conditions; and is one of the following:

- (1) A doctor of medicine or osteopathy;
- (2) A registered nurse; or
- (3) An individual who holds at least a bachelor's degree in a professional category.

"Recipient" means an individual who has been determined eligible for medicaid assistance.

"Representative" means a resident's legal guardian, conservator, or representative payee as designated by the Social Security Administration, or person designated in writing by the resident to manage his or her own personal funds.

"Resident" means a recipient who resides in a nursing facility and receives needed professional services directed by the attending physician toward the maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.

"State mental health authority" means the adult mental health division of the department of health.

"State mental retardation/developmental disability authority" means the developmental disabilities division of the department of health.

"UR" means utilization review of inpatient long-term institutional services provided to recipients in an ICF-MR to determine whether continued stay at the specific level of care is appropriate.

"URC" means the utilization review committee, which is a group composed of one or more physicians and other health care professionals that conducts utilization review."] [Eff 08/01/94; am 05/24/07; am 06/25/12; R] (Auth: HRS §346-14; 42 C.F.R. §§430.10, 431.10, 435.1009; Pub. L. No. 100-203) (Imp: 42 C.F.R. §§440.40, 440.150, 435.1009, 483.35, 483.301; 42 U.S.C. §§1396)

94. Section 17-1737-90, Hawaii Administrative Rules, is repealed as follows:

["§17-1737-90 Definitions. As used in this subchapter:

"Allogenic" organ or tissue means the source of the organ or tissue is from another person.

"Antigen" means any substance which is capable under appropriate conditions of inducing a specific immune response.

"Cadaveric" tissue or organ is tissue or organ removed from a donor who has irreversible brain damage and who has been declared brain dead. The donor may have been maintained by artificial means for harvesting of the tissue or organ or the donor may have died and the tissue or organ was removed prior to its deterioration.

"Histocompatibility" is the matching of the tissue so the graft will not be rejected due to the presence of incompatible antigens.

"Organ" is a somewhat independent part of the body that performs a special function or functions.

"Tissue" means an aggregation of similarly specialized cells united in the performance of a particular function.

"Transplantation" means the grafting of organs and tissues taken from the patient's own body or from another for the purpose of replacing diseased tissues or diseased organ."] [Eff 08/01/94; am 11/25/96; am 06/25/12; R] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: 42 C.F.R. §440.230; 42 U.S.C. §1396(b)(i))

95. Section 17-1737-100, Hawaii Administrative Rules, is repealed as follows:

["§17-1737-100 Definitions. As used in this subchapter:

"Attending physician" means a physician (M.D.) or a doctor of osteopathy (O.D.) who is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

"Hospice program" means a public or private organization or subdivision of either, that is primarily engaged in providing care to terminally ill individuals and is qualified as a medicaid provider.

"Periods of crisis" is a period in which the individual requires continuous care to achieve palliation or management of acute medical symptoms.

"Representative" means a person who is, because of the individual's mental or physical incapacity, authorized in accordance with state law to execute or revoke an election for hospice care or terminate medical care on behalf of the terminally ill individual.

"Respite care" is short term inpatient care provided to the individual only when necessary to relieve the family members or other persons caring for the individual.

"Terminally ill" means that the individual has a medical prognosis that the individual's life expectancy is six months or less."] [Eff 08/01/94; R] (Auth: HRS §346-14) (Imp: 42 U.S.C. §1396(a) and (d))

96. Section 17-1737-116, Hawaii Administrative Rules, is repealed as follows:

["17-1737-116 Definitions. For the purpose of this subchapter:

"Baseline status" means that the patient reached a level of condition where no further medical adjustments are indicated except for adjustments for growth and development.

"Dynamic care" means care for pediatric patients which includes a pattern of continuous change and growth in treatment.

"Freestanding" means a medical institution that is not part of a parent medical institution or a medical institution that is separated geographically from the parent medical institution.

"Inpatient acute care" means inpatient acute care as defined by a nationally accepted severity and intensity standards (for example: interqual severity and intensity screening standards).

"Not at risk for rapid deterioration" means individuals that can be placed in a non-acute care setting without risk to the individuals' health and safety.

"Pediatric" means individuals from twenty-eight days to twenty-one years of age.

"Skilled nursing facility or SNF" means a facility that is licensed and certified as meeting the requirements of participation to provide skilled nursing.

"Subacute" means a level of care that is needed by a patient not requiring acute care, but who needs more intensive skilled nursing care than is provided to the majority of patients in a skilled nursing facility."] [Eff 11/25/96; am 06/19/00; am 06/25/12; R] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: HRS §346-14)