

DEPARTMENT OF HUMAN SERVICES

Amendments and Compilation of Chapters 17-1403 and 17-1404 and Repeal of Chapters 17-1417, 17-1419, 17-1439, and 17-1454

September 2, 2019

1. Chapter 17-1403, Hawaii Administrative Rules, entitled "Availability and Cost of Administrative Rules", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 [~~ADULT AND COMMUNITY CARE PROGRAMS~~]

ADULT PROTECTIVE AND COMMUNITY SERVICES BRANCH

CHAPTER 1403

AVAILABILITY AND COST OF [~~DEPARTMENT PROGRAM MANUALS~~] ADMINISTRATIVE RULES

§17-1403-1	Purpose
§17-1403-2	Definitions
§17-1403-3	Availability of administrative rules
§17-1403-4	Cost of administrative rules

§17-1403-1 Purpose. The purpose of this chapter is to define the conditions under which the department

shall make its [~~program manuals~~] administrative rules available to the public[~~7~~] and to establish the costs of copies. [Eff 12/5/97; comp 7/9/01; am and comp] (Auth: HRS §§91-2, 346-14) (Imp: HRS §§91-2, 91-2.5, 92-21)

§17-1403-2 Definitions. As used in this chapter:

"Administrative rules" means the department's administrative rules on file with the Lieutenant Governor's office.

"Custodian" means any organization or individual, not a public agency or officer, responsible for centrally locating the [~~program manuals and making the manuals~~] administrative rules and making the rules publicly accessible to a substantial number of the population served. The agencies and organizations shall accept responsibility for filing all amendments and changes forwarded by the department.

"Program development [~~offices~~] office" means the state [~~offices which administer the adult and community care programs.~~] office that administers the adult protective and community services programs.

~~["Program manuals" means the rules of the department on file with the Lieutenant Governor's office and procedures that are used by department staff to determine the eligibility of an applicant or recipient.]~~ [Eff 12/5/97; am and comp 7/9/01; am and comp] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1403-3 Availability of [~~program manuals.~~] administrative rules. (a) The [~~program manuals~~] administrative rules shall be made available to [~~interested~~] individuals and organizations for review, study, or reproduction on regular workdays during regular office hours.

(b) Custodians shall make the ~~[program manuals]~~ administrative rules available for public review.

(c) The ~~[program manuals]~~ administrative rules shall be available upon request through the following offices:

(1) Program development ~~[offices]~~ office on Oahu; and

(2) ~~[Social]~~ Adult protective and community services offices on each island.

(d) Upon request, the administrative rules may be made available electronically.

(e) When copies of the administrative rules are available electronically on the department's website, the requester shall be informed of the electronic availability and location of the administrative rules on the website. [Eff 12/5/97; am and comp 7/9/01; am and comp] (Auth: HRS §§91-2, 346-14) (Imp: HRS §§91-2, 91-5)

§17-1403-4 Cost of ~~[program manuals.]~~ administrative rules. (a) The department shall deposit, without charge, ~~[fifteen]~~ seven copies of the ~~[program manual of]~~ administrative rules of the department with the state publications distribution center and one copy with the University of Hawaii.

(b) Upon request, copies of specific sections of the ~~[program manuals]~~ administrative rules shall be provided without charge to ~~[an applicant or a recipient, or the individual's]~~ a claimant, as defined in chapter 17-1402, or the claimant's legal representative who requires specific sections of the ~~[program manuals]~~ administrative rules to determine whether an administrative hearing should be requested or to prepare for a hearing.

(c) Upon request, copies of the ~~[program manuals]~~ administrative rules shall be provided without charge to state or county agencies and officers, and public agencies and officers outside the State.

- (1) State or county agencies or officers, and public agencies and officers outside the State entitled to a free copy of the department's ~~[program manuals shall be placed on the mailing list of the department's program development offices for the additional issuances of the rules and procedures.]~~ administrative rules shall be placed on the mailing list of the program development office.
- (2) State or county agencies or officers, and public agencies and officers outside the State placed on the mailing list shall be responsible to notify the program development ~~[offices, for any reason,]~~ office when the issuances are no longer needed.

(d) ~~[Upon request, copies of rules governing the regulation of adult day care centers shall be provided without charge to interested individuals and agencies.~~

~~(e)]~~ Custodians, individuals, or organizations not entitled to receive free copies ~~[as specified in subsections (a), (b), (c), and (d) shall be assessed a fee for copies of department program manuals or specific sections of the manuals.]~~ of the administrative rules and who choose not to access the administrative rules through electronic files shall be assessed a fee related to the cost of reproduction and applicable postal rates.

~~[(f)]~~ (e) The fee for reproduction shall be ~~[as established in Hawaii Revised Statutes,]~~ ten cents per one-sided copy and twenty cents per two-sided copy, and shall be paid in advance to the department by cash, money order, or certified check.

~~[(g)]~~ (f) Copies shall be provided within ~~[twenty working days by the department's]~~ ten working days from the date of the request by the program development office or the ~~[social]~~ adult protective and community services office in the geographic area where the copies are being requested. The ten-day period may be extended for an additional twenty working days if the department provides to the

requesting individual, within the initial ten working days, a written explanation of unusual circumstances causing the delay." [Eff 12/5/97; am and comp 7/9/01; am and comp] (Auth: HRS §§91-2, 346-14) (Imp: HRS §§91-2.5, 91-5, 92-21, 93-2, 93-3)

2. Chapter 17-1404, Hawaii Administrative Rules, entitled "Fraud Provisions", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 [~~ADULT AND COMMUNITY CARE PROGRAMS~~]

ADULT PROTECTIVE AND COMMUNITY SERVICES BRANCH

CHAPTER 1404

FRAUD [~~PROVISIONS~~]

§17-1404-1	Purpose
§17-1404-2	Definition
§17-1404-3	Investigation of suspected fraud
§17-1404-4	Penalty

§17-1404-1 Purpose. The purpose of this chapter is to define conditions under which the department will investigate suspected fraud. [Eff 12/5/97; comp 7/9/01; comp] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1404-2 [~~Definitions.~~] Definition. As used in this chapter [~~:-"Fraud"~~], "fraud" means a knowing false statement or misrepresentation of a fact which results in the receipt of a benefit that would not otherwise result without the false statement.

~~[For example, failing to report employment income is fraudulent when a recipient or other party knowingly makes a false statement such as "no income" or "no employment" to receive public assistance benefits that the recipient would not otherwise receive if the recipient reported the recipient's income.]~~ [Eff 12/5/97; comp 7/9/01;
am and comp] (Auth: HRS §346-14)
(Imp: HRS §§346-14, 346-34)

§17-1404-3 Investigation of suspected fraud.

(a) The department shall identify situations in which there [~~are questions of~~] is suspected fraud such as, but not limited to, a recipient's receiving [~~financial assistance, food stamps,~~] public assistance or social services to which the individual is not entitled through wilfully misrepresenting circumstances or intentionally concealing information from the department.

(b) The department's investigations office shall, as appropriate, investigate suspected fraud and may refer these cases to law enforcement officials.

(c) The methods of investigation shall not infringe on the legal rights of the persons involved and shall afford these individuals due process of law.
[Eff 12/5/97; am and comp 7/9/01;
am and comp] (Auth: HRS §346-14)
(Imp: HRS §§346-14, 346-34)

§17-1404-4 Penalty. The department may initiate prosecution of an individual suspected of fraud. In addition, the individual may be subject to any other

criminal, civil, or administrative sanction authorized by law." [Eff 12/5/97; comp 7/9/01; comp] (Auth: HRS §346-14) (Imp: HRS §346-34)

3. Chapter 17-1417, Hawaii Administrative Rules, entitled "Adult Day Care Services", is repealed.

4. Chapter 17-1419, Hawaii Administrative Rules, entitled "Chore Services for Community Long-Term Care Programs", is repealed.

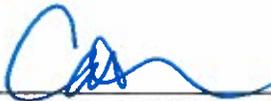
5. Chapter 17-1439, Hawaii Administrative Rules, entitled "Home and Community Based Services for the Developmentally Disabled/Mentally Retarded", is repealed.

6. Chapter 17-1454, Hawaii Administrative Rules, entitled "Licensing of Home and Community-Based Management Agencies", is repealed.

7. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material except source notes and other notes, is underscored.

8. These amendments to and compilation of chapters 17-1403 and 17-1404, and repeal of chapters 17-1417, 17-1419, 17-1439, and 17-1454, Hawaii Administrative Rules, shall take effect ten days after filing with the office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on September 2, 2019 and filed with the Office of the Lieutenant Governor.


PANKAJ BHANOT
Department of Human Services

APPROVED AS TO FORM:


Deputy Attorney General

