

DEPARTMENT OF HUMAN SERVICES

Adoption of Chapter 17-803 Hawaii Administrative Rules

FINDINGS

The Department of Human Services finds that:

1. As of August 8, 2023, several large wildfires were burning in the counties of Hawaii and Maui. Dry conditions and strong and potentially damaging easterly winds caused by the passage of Hurricane Dora to the south of the State were contributing to the wildfire danger.
2. The Acting Governor of the State of Hawaii, Sylvia Luke, issued an emergency proclamation pursuant to chapter 127A, Hawaii Revised Statutes (HRS) on August 8, 2023 declaring a state of emergency due to the impact of the wildfires. On August 9, 2023, Acting Governor Luke issued the second and third Proclamations relating to the wildfires. On August 10, 2023, August 13, 2023, and August 19, 2023, Governor Josh Green issued the fourth, fifth and sixth proclamations extending the state of emergency.
3. These fires have caused significant loss of life and property in the State of Hawaii. Current estimates indicate that over 100 people have died, and many more remain missing. More than 2,200 structures have been destroyed, including an estimated 1,800 residential homes and many businesses. Many residents have lost their businesses and jobs. Thousands are without adequate shelter, clothing, and transportation.
4. The devastating impact of the wildfires in Hawaii constitutes "an imminent peril to the public health, safety, or morals, to livestock and poultry health, or

to natural resources" as set forth in section 91-3(b), HRS.

5. Swift adoption of these rules is necessary to support the recovery efforts due to the wildfires by providing immediate monetary aid to Hawaii families with dependent children.

6. The department must therefore adopt these emergency rules without prior notice or hearing to expedite the department's recovery efforts by providing immediate monetary relief to the people of Hawaii, as authorized under section 91-3(b), HRS.

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 803

NON-RECURRING SHORT-TERM (NRST) BENEFITS FOR WILDFIRE
DISASTER VICTIMS

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-803-1 Purpose. (a) The purpose of this chapter is to establish the rules governing the administration and implementation of the NRST benefits to address a specific crisis or episode of need for families with dependent children who are impacted by the declared emergency.

(b) These emergency rules shall be effective upon filing with the Lieutenant Governor's office; provided that the conditions set out in these rules shall apply retroactively as of September 1, 2023. [Eff SEP 19 2023] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-2 Definitions. For the purposes of this chapter:

"Adult" means a person aged eighteen or over who is not a dependent child, or if under age eighteen is a minor head-of-household living with and caring for a dependent child.

"Applicant" means the responsible adult who applies for benefits on behalf of the family unit.

"Automobile" means a four-wheeled personal automotive vehicle designed for passenger transportation.

"Department" or "DHS" means the department of human services, State of Hawaii.

"Department's designee" means a service provider contracted by the department to administer and deliver the benefits and services described in this chapter.

"Dependent child" means a child under twenty-five years of age who is in the care of a specified relative.

"Disaster assistance organization" means a state or local government or community-based organization that provides emergency or disaster relief assistance payments to residents who were affected by the emergency wildfire disaster.

"Family member" means a member of the applicant's immediate family unit including any spouse or common-law spouse, and dependent child for whom the applicant is providing care.

"Family unit" means a family that includes adult specified relatives and their dependent children who reside in the same household.

"Federal Emergency Management Agency" or "FEMA" means the federal entity whose responsibility is to coordinate community preparedness for potential emergency disaster and respond upon the declaration of an emergency disaster by the U.S. President.

"Fraud" means willfully providing a false statement or misrepresentation of a fact or concealing or withholding facts which results in the receipt of an NRST benefit that would not otherwise result without the false statement or withheld facts, or any action by an individual for the purpose of establishing or maintaining eligibility or for increasing or preventing a reduction in benefits.

"Long-term housing" means a housing structure where the family unit will reside for a minimum of twelve months and will be the family unit's primary residence. A housing structure may be an apartment unit, condominium unit, townhouse, mobile home, or single-family house.

"Non-recurring short-term benefits" or "NRST benefits" means benefits:

- (1) Provided to address a family's specific crisis situation or episode of need;
- (2) Not intended to meet a family's recurring or ongoing needs; and
- (3) Will not extend beyond four months.

"Primary residence" means the single residence designated as the family's permanent or long-term home for a minimum period of twelve months.

"School-aged" means a dependent child who attends elementary, middle or intermediate, secondary school, or post-secondary school such as a college, university, vocational or trade school.

"Specified relative" means an adult who exercises responsibility for the care and control of a dependent child who resides in the same family unit. Persons considered to be specified relatives shall include natural and adoptive parents, siblings, aunts, uncles, grandparents, nieces, nephews, and cousins, including persons who are related by marriage such as stepparents, step siblings, step grandparents, step

aunts, step uncles, step nieces, step nephews, and step cousins.

"Short-term housing" means a housing structure intended to provide a family temporary living arrangement for less than twelve months. Short-term housing may include but is not limited to a transient accommodation, vacation rental unit, hotel room, and bed and breakfast home. [Eff SEP 19 2003] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-3 General requirements. (a) A family unit may be eligible to receive NRST benefits if the following requirements are met:

- (1) The family unit experienced property loss or damage, or reduction in earnings or employment loss as the direct result of the emergency;
- (2) There is a dependent child in the family unit;
- (3) The family members are residents of the state; and
- (4) The family unit's gross income does not exceed three hundred fifty per cent of the 2023 Hawaii Federal Poverty Level, established in Exhibit I, entitled "Non-Recurring Short-Term (NRST) Benefits for Wildfire Disaster Victims - Income Limits for Eligibility", attached at the end of this chapter.

(b) The NRST benefits shall not duplicate any emergency and disaster relief assistance the family unit received from FEMA, the American Red Cross, or other disaster assistance organization. [Eff SEP 19 2003] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-4 Application processing requirements.

(a) A family unit shall complete and submit a department-prescribed application form, and supporting documents to verify information provided on the application form when requested by the department or department's designee.

(b) The applicant shall be the primary contact person for the family unit's application and shall sign the application form under penalty of law that all the information needed to establish eligibility for the NRST benefits, as stated on the application form, is true and correct.

(c) A family member shall not be eligible for NRST benefits in more than one family unit. In instances where a dependent child or adult family member resides in multiple family units, the applicant must verify that the dependent child or adult family member has not received NRST benefits in another family unit. An application under this chapter may be amended to remove a dependent child or adult family member pursuant to section 17-803-5(c) if the department determines that the dependent child or adult family member has been issued payments for NRST benefits in another family unit's approved NRST application. Such an adjustment to the family unit's application shall not be subject to review pursuant to section 17-803-8 without documentation showing that the family member would not receive duplicate NRST benefits.

(d) The date of the application shall be the date the completed and signed application form is received by the department's designee.

(e) A decision on a family's completed application for NRST benefits shall be made by the department's designee within thirty days from the date the application was received; provided that, and at the department's discretion, the department or department's designee is unable to determine eligibility for the following reasons:

- (1) There are factors contributing to the delay that are beyond the control of the applicant, such as documentation to support

the verification of information in the application are not readily accessible to the family unit due to the wildfire disaster; or

- (2) An administrative emergency arises that cannot be controlled by the department or department's designee.

(f) An applicant who is requested to submit additional information or verification to establish eligibility shall be given ten days to provide the information or verifying documents from the date the request is made by the department or department's designee. An extension beyond the ten-day period may be granted, at the discretion of the department or department's designee, if the delay in providing the requested information or verifying documents is beyond the control of the applicant.

(g) An applicant who fails to provide the necessary information and verification to establish eligibility within the time limits established in this section shall be ineligible for NRST benefits.

(h) A family unit, who was determined eligible for NRST benefits, shall report any changes to the family unit's circumstances that may affect their eligibility within ten days from the date the family unit's circumstances changed. [Eff SEP 19]
(Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-5 NRST benefits. (a) An eligible family unit may receive one or more of the following NRST benefits:

- (1) Housing deposit, as incurred, to secure long-term housing for the family unit. The NRST housing deposit shall be the actual housing deposit amount up to the maximum amount of \$4,000.
- (2) Housing payments for no more than four months, to maintain the family unit's long-term housing. The NRST housing payments

- shall be the actual monthly cost up to the maximum amount of \$4,000 per month.
- (3) Short-term housing payments for no more than four months, to maintain the family unit's temporary housing arrangement. The NRST short-term housing payments shall be the actual cost each month up to the maximum amount of \$18,000 each month.
 - (4) Automobile downpayment, as incurred, to secure a reliable automobile for the family unit. The NRST automobile downpayment amount shall be the actual downpayment up to the maximum amount of \$5,000.
 - (5) Automobile payments for no more than four months, to maintain the family unit's mode of transportation. The NRST automobile payments shall be the actual monthly cost up to the maximum amount of \$500 per month.
 - (6) One-time utility deposit, as incurred, to connect a family unit's electricity, gas, and water source. The NRST utility deposit may be applied to one or more utility source. The total NRST utility deposit amount shall be the actual utility deposit expense up to \$2,000.
 - (7) Utility payments for no more than four months, to maintain the family unit's utility sources. The NRST utility payments may be applied to one or more utility sources. The total NRST utility payment amount shall be the combined monthly cost for all utility sources up to the maximum amount of \$750 each month.
 - (8) Clothing allowance for each eligible family member. The NRST clothing allowance shall not exceed \$350 for each dependent child under the age of eighteen years, and \$500 for each dependent child aged eighteen years and older and each adult in the family unit. Each family member must meet all eligibility requirements in section 17-803-3 to receive the NRST clothing allowance.

(9) School supply allowance of \$300 for each school-aged dependent child. Each dependent child must meet all eligibility requirements in section 17-803-3 to receive the NRST school supply allowance.

(b) Each NRST benefit listed in subsection (a), paragraphs (1) through (7), shall be limited to once in the lifetime of the family unit.

(c) Each NRST benefit listed in subsection (a), paragraphs (8) and (9), shall be limited to once in the lifetime of each family member.

(d) The family unit shall have a signed rental or lease contract or other formal and binding agreement, provided that any specified costs shall not include maintenance, repairs, remodeling, insurance, property tax fees, or other costs not related to immediate housing needs or the automobile purchase, to qualify for any NRST benefits listed in subsection (a), paragraphs (1), (2), (4), and (5).

(e) The family unit shall have accounts with the utility companies to qualify for each NRST benefit listed in subsection (a), paragraphs (6) and (7).

(f) NRST benefits may be paid to the family unit or directly to a vendor or a payee other than the family unit at the discretion of the department or the department's designee. [Eff **SEP 19 1991**] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-6 Disposition of application. (a) The date of eligibility for NRST benefits shall be the later of the following:

- (1) The date of application, provided that the eligibility requirements of sections 17-803-4, 17-803-5, and 17-803-6 are met from the date of application; or
- (2) The date the NRST benefits are requested to begin and shall be within sixty days after the eligibility conditions of sections 17-803-4, 17-803-5, and 17-803-6 are met.

(b) The NRST benefit amount allowable under section 17-803-5 may be reduced as follows:

- (1) Any reduced adjustments by the department or department's designee to disallow requested NRST benefits for any dependent child or adult family member who does not meet the requirements or already received NRST payments under this chapter as provided in section 17-803-4(d);
- (2) Any reduced adjustments by the department to disallow requested NRST benefits that are duplicative of benefits the family unit will receive or already received as specified under sections 17-803-3(b) or 17-803-5(b) or (c); or
- (3) Any reduced adjustments by the department when the family unit does not provide the requested verification to support the NRST benefit type requested.

(c) If eligible under this chapter, the department shall issue the NRST benefit payments that the family unit is determined eligible to receive, pursuant to section 17-803-6(d), within thirty calendar days from the date the eligibility determination is made.

(d) The department shall provide a written notice to the applicant of the disposition of the application for NRST benefits and any NRST benefit calculations. The notice shall contain:

- (1) A statement of the action taken;
- (2) The reasons for the action;
- (3) The specific rules supporting the action;
- (4) The NRST benefit amounts approved, if any, and for which benefit months;
- (5) The right to request a departmental review pursuant to section 17-803-8, if applicable; and
- (6) The rights and responsibilities of the family unit if eligible for the NRST benefits. [Eff ~~SEP 19~~] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601,

et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-7 Application determination dispute.

(a) If an applicant disputes a determination of ineligibility or an NRST benefit amount, the applicant may submit a request for departmental review.

(b) A request for departmental review shall be submitted in writing to the department no later than thirty calendar days from the date of the eligibility determination notice.

(c) A request for departmental review shall include an explanation of why the applicant disagrees with the eligibility determination or NRST benefit amount, and shall include all arguments and evidence the applicant deems relevant to support the disputed determination or benefit amount.

(d) Untimely requests for departmental review may not be granted except upon the showing of good cause that is accepted by the department. Good cause means the applicant provides evidence of circumstances that are out of the applicant's control including but not limited to family illness or death, or a major event causing a disruption of the family's circumstance. [Eff **SEP 19 2021**] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-8 Review process and decision. (a) The department shall acknowledge the applicant's request for a departmental review, in writing, no later than seven business days from the date it is received by the department.

(b) The departmental review shall be conducted by the department at a time and in a manner determined by the department, at the department's discretion, and may be conducted in-person, through telephone

conference, by video conferencing, in writing, or by a combination of these methods.

(c) In addition to the arguments and evidence provided by the applicant in the request for departmental review, the department may request additional information from the applicant that the department deems relevant to its review.

(d) The department shall render its decision in writing within fourteen calendar days from the written acknowledgement in subsection (a).

(e) A decision rendered by the department under this section shall be final and conclusive and not subject to further review under section 91-14, HRS. [Eff SEP 19] (Auth: HRS §§91-3, 91-4, 91-14, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-9 Overpayment and fraud. (a) An overpayment shall be created when:

- (1) The applicant fails to meet the eligibility requirements or provide information that results in an overpayment;
- (2) There is an error in determining the family unit's eligibility for NRST benefits that results in an overpayment; or
- (3) There is an error in calculating an NRST benefit amount, and the difference between the amount paid to the family unit and the amount the family unit is eligible to receive exceeds \$500.

(b) A family unit subject to recovery of an overpayment shall be provided adequate notice by the department or department's designee including:

- (1) The reasons, dates, and the amount of the alleged overpayment; and
- (2) The proposed method by which the overpayment shall be recovered.

(c) The available methods that the family unit shall repay the department include:

- (1) Cash payment made in person at the department's fiscal management collections office; or
- (2) Cashier's check or money order, payable to the director of finance, State of Hawaii.
- (d) Repayment must be made in full or upon signing of a repayment agreement with no less than ten percent of the total overpayment amount paid monthly until the entire overpayment amount is recovered.
- (e) If the family unit for whom a collection has been initiated fails to make a payment for any month in the calendar tax year, the department may refer debts exceeding twenty-five dollars to the comptroller of the State for tax setoff as specified in chapter 17-606, or any other appropriate action as authorized by law.
- (f) Fraud, as defined in section 17-803-2, committed by the applicant or family unit shall be punishable under applicable state and federal laws. [Eff SEP 19] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

§17-803-10 Termination, denial, or reduction for insufficient funds. (a) The department may refuse to take new applications, deny benefits, reduce benefit amounts, or terminate benefits described in this chapter when there are insufficient funds to pay for benefits.

(b) When allocated funds for the NRST benefits have or soon will be exhausted, the department may issue notices to applicants of actions being taken by the department to administer the NRST benefits program.

(c) A decision under this section shall be final and conclusive and is not subject to review under section 17-803-8. [Eff SEP 19] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.) (Imp: HRS §346-14; 45 C.F.R. §260.31)

State of Hawaii
Department of Human Services
Benefit, Employment and Support Services Division

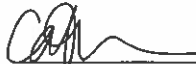
NON-RECURRING SHORT-TERM (NRST) BENEFITS FOR WILDFIRE
DISASTER VICTIMS - INCOME LIMITS FOR ELIGIBILITY

350% OF THE 2023 HAWAII FEDERAL POVERTY LEVEL

| FAMILY SIZE | PER YEAR | MONTHLY |
|-----------------------------------|-----------------|----------------|
| 2 | \$79,380 | \$6,615 |
| 3 | \$100,065 | \$8,339 |
| 4 | \$120,750 | \$10,063 |
| 5 | \$141,435 | \$11,786 |
| 6 | \$162,120 | \$13,510 |
| 7 | \$182,805 | \$15,234 |
| 8 | \$203,490 | \$16,958 |
| 9 | \$224,175 | \$18,681 |
| 10 | \$244,860 | \$20,405 |
| 11 | \$265,545 | \$22,129 |
| 12 | \$286,230 | \$23,853 |
| 13 | \$306,915 | \$25,576 |
| 14 | \$327,600 | \$27,300 |
| For each additional family member | \$20,685 | \$1,724 |

DEPARTMENT OF HUMAN SERVICES

The emergency rules chapter 17-803 relating to Non-Recurring Short-Term Benefits for Wildfire Disaster Victims, Hawaii Administrative Rules, is adopted and shall become effective upon filing with the Office of the Lieutenant Governor.



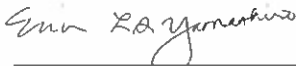
CATHY BETTS
Director of Human Services



SYLVIA LUKE
Acting Governor
State of Hawaii

Dated: SEP 19 2023

APPROVED AS TO FORM:



Deputy Attorney General

SEP 19 2023

Filed

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