

DEPARTMENT OF HEALTH

Adoption of Chapter 11-88.2
Hawaii Administrative Rules

NOV 19 2014

1. Chapter 88.2 of Title 11, Hawaii Administrative Rules, entitled "Emergency Rules Relating to Citizens of COFA Nations and Legal Permanent Residents Present Less than Five Years" is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 88.2

EMERGENCY RULES RELATING TO CITIZENS OF COFA NATIONS
AND LEGAL PERMANENT RESIDENTS
PRESENT LESS THAN FIVE YEARS

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§11-88.2-1 Purpose. This chapter is established to provide, subject to the availability of state funding, state services for citizens of Compact of Free Association (COFA) nations and legal permanent residents admitted to the United States for less than five years who are age nineteen years and older and lawfully present in the state, who would be eligible for services for persons with developmental or intellectual disabilities but for citizenship status. These emergency rules are necessary to ensure that individuals with developmental disabilities or intellectual disabilities who are eligible for services under this chapter can receive appropriate services. [Eff **NOV 19 2014**] (Auth: HRS §§91-4, 321-9, 333F-18) (Imp: HRS §333F-2, 333F-3, 333F-8)

§11-88.2-2 Scope. Notwithstanding any sections to the contrary, chapter 11-88.1 in its entirety, with the exception of sections 11-88.1-6, 11-88.1-18, 11-88.1-20, shall be incorporated and made a part of this

chapter. [Eff **NOV 19 2014**] (Auth: HRS §§321-9, 333F-18) (Imp: HRS §§333F-2, 333F-3)

§11-88.2-3 Definitions. All terms defined in chapter 11-88.1, shall have the same meaning when used in these rules. Additionally, as used in these rules:

"Compact of Free Association (COFA) nations" means the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.

[Eff **NOV 19 2014**] (Auth: HRS §§321-9, 333F-18) (Imp: HRS §§333F-1, 333F-2, 333F-3)

§11-88.2-4 Eligibility requirements. (a) An individual requesting home and community-based services under this chapter must meet the following eligibility requirements:

- (1) The basic eligibility requirements described in section 11-88.1-5 with the exception of the citizenship requirements;
- (2) Meet the basic financial eligibility requirements described in chapters 17-1717, 17-1718, 17-1719 or 17-1730.1 with the exception of citizenship requirements;
- (3) Be an alien who is not eligible for federal medical assistance and is either:
 - (A) A citizen of a COFA nation; or
 - (B) A legal permanent resident, admitted to the United States for less than five years who is lawfully present in the state;
- (4) Be age nineteen years or older; and
- (5) Not be pregnant.

(b) An individual who is not eligible to participate under this chapter includes a person who:

- (1) Does not meet the requirements of subsection (a);
- (2) Does not meet the financial eligibility requirements described in this chapter;
- (3) Is eligible for coverage under a health plan, as an active military enlistee, a retired military personnel, or a dependent of an active or retired military enlistee; or
- (4) Is eligible for or receiving coverage under any health plan. [Eff **NOV 19 2014**]

(Auth: HRS §§321-9, 333F-18) (Imp: HRS §333F-1)

§11-88.2-5 Decrease or termination of services.

(a) Services for a participant eligible for home and community-based services under this chapter may be decreased or terminated for the following reasons:

- (1) The participant meets the requirements for decrease or termination of services as outlined in section 11-88.1-10(a);
- (2) Lack of state funds;
- (3) This program is terminated or repealed.
[Eff **NOV 19 2014**] (Auth: HRS §§321-9, 333F-18) (Imp: HRS §§333F-1, 333F-19)

§11-88.2-6 Termination of eligibility. A

participant's eligibility for home and community-based services under this chapter shall be terminated for any of the following reasons:

- (a) The participant meets the requirements for termination of division services as outlined in section 11-88.1-9(a);
- (b) Lack of state funds;
- (c) This program is terminated or repealed.
[Eff **NOV 19 2014**] (Auth: HRS §§321-9, 333F-18) (Imp: HRS §§333F-2, 333F-18, 333F-19)

§11-88.2-7 Scope of services.

(a) Services and support administered or provided by the division for persons with developmental or intellectual disabilities eligible for services under this chapter may include the services and support as outlined in section 11-88.1-15(a).

(b) Programs and services provided to participants eligible for services under this chapter shall be limited to the amount of resources allocated or available for the purposes of this subchapter.

(c) When a person cannot be served due the unavailability of appropriate providers, necessary funding, or both, the division shall assist the person in finding other community or department resources.

(d) Home and community-based services provided to participants eligible for services under this chapter include any service as outlined in section 11-88.1-15(d).

(e) Consumer-directed services provided to participants eligible for services under this chapter include services as outlined in section 11-88.1-15(e).

(f) All home and community-based services provided to participants eligible under this chapter shall be authorized by the division and included in the participant's written ISP.

(g) Home and community-based services for participants eligible under this chapter shall be subject to the same limits and conditions as contained in the Medicaid waiver.

(h) The utilization review committee shall review services for the authorization of services above or below the service limitations or conditions.

(i) Home and community-based services shall not be provided to a participant eligible for services under this chapter under the following conditions:

(1) The conditions outlined in section 11-88.1-15(i)(1) through (i)(3);

(2) Lack of state funds;

(3) This program is terminated or repealed.

[Eff **NOV 19 2014**] (Auth: HRS §§321-9, 333F-18)

(Imp: HRS §§321-11.2, 333F-6, 333F-19, 333F-21)

§11-88.2-8 Suspension, reduction (decrease), or termination of division services. (a) A person eligible for services under this chapter may appeal the suspension, reduction (decrease), or termination of division services by following any of the steps outlined in section 11-88.1-19(a)-(c).

(b) A person eligible for services under this chapter may not appeal when the suspension, reduction (decrease), or termination of division services:

(1) Is due to a lack of state funds;

(2) The program is terminated or repealed.

[Eff **NOV 19 2014**] (Auth: HRS §§321-9, 333F-18) (Imp: HRS §§333F-18, 333F-19)

§11-88.2-9 Effective period of these rules. These emergency rules shall take effect upon filing with the Lieutenant Governor's office and shall be effective for no longer than one hundred twenty (120) days from the effective date. [Eff **NOV 19 2014**] (Auth: HRS §§ 91-4, 321-9, 333F-18)

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LIEUTENANT GOVERNOR'S
OFFICE

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