

DEPARTMENT OF HEALTH

Amendments to Chapter 11-88.1, Services for Persons
with Developmental or Intellectual Disabilities

[JUN 22 2015]

SUMMARY

1. Subchapter 7, entitled "Rules Relating to Citizens of COFA Nations and Legal Permanent Residents Present Less than Five Years" is added.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 88.1

SERVICES FOR PERSONS WITH DEVELOPMENTAL OR
INTELLECTUAL DISABILITIES

Subchapter 7 Rules Relating to Citizens of COFA
 Nations and Legal Permanent
 Residents Present Less than Five
 Years

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SUBCHAPTER 7

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

§11-88.1-34 Purpose. This subchapter 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.
[Eff JUN 22 2015 1 (Auth: HRS §§321-9, 333F-18)
(Imp: HRS §§333F-2, 333F-3, 333F-8)]

§11-88.1-35 Scope. Sections 11-88.1-6, 11-88.1-18, 11-88.1-20 shall not apply to this subchapter.
[Eff JUN 22 2015] (Auth: HRS §§321-9, 333F-18)
(Imp: HRS §§333F-2, 333F-3)

§11-88.1-36 Definitions. All terms defined in chapter 11-88.1, shall have the same meaning when used in this subchapter. Additionally, as used in this subchapter:

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

[Eff JUN 22 2015] (Auth: HRS §§321-9, 333F-18)

(Imp: HRS §§333F-1, 333F-2, 333F-3)

§11-88.1-37 Eligibility requirements. (a) An individual requesting home and community-based services under this subchapter must:

- (1) Meet 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 subchapter includes a person who:

- (1) Does not meet the requirements of subsection (a);
- (2) Does not meet the financial eligibility requirements described in this subchapter;
- (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 JUN 22 2015]

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

§11-88.1-38 Decrease or termination of services.

(a) Services for a participant eligible for home and community-based services under this subchapter 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 JUN 22 2015] (Auth: HRS §§321-9,
333F-18) (Imp: HRS §§333F-1, 333F-19)

§11-88.1-39 Termination of eligibility. A participant's eligibility for home and community-based services under this subchapter 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 JUN 22 2015] (Auth: HRS §§321-9, 333F-18)

(Imp: HRS §§333F-2, 333F-18, 333F-19)

§11-88.1-40 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 subchapter 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 subchapter 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 to 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 subchapter include any service as outlined in section 11-88.1-15(d).

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

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

(g) All home and community-based service provided to participants eligible under this subchapter 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 subchapter under the following conditions:

- (1) The conditions outlined in section 11-88.1-15(i);
- (2) Lack of state funds;
- (3) This program is terminated or repealed.

[Eff JUN 22 2015] (Auth: HRS §§321-9, 333F-18)
(Imp: HRS §§321-11.2, 333F-6, 333F-19, 333F-21)

§11-88.1-41 Suspension, reduction (decrease), or termination of division services. (a) A person eligible for services under this subchapter may appeal the suspension, reduction (decrease), or termination of division services by following any of the steps outlined in section 11-88.1-19.

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

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

(2) Is due to the termination or repeal of the program.

[Eff JUN 22 2015] (Auth: HRS §§321-9, 333F-18) (Imp: HRS §§333F-18, 333F-19)

DEPARTMENT OF HEALTH

Amendments to chapter 11-88.1 of the Hawaii Administrative Rules, on the Summary page dated JUN 22 2015 , were adopted on JUN 22 2015 , following public hearings held on Hawaii on , on Kauai on , on Oahu on , and on Maui on , after public notice was given in the Honolulu Star-Advertiser, the Hawaii Tribune-Herald, the Garden Island, the Maui News, and the West Hawaii Today on .

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

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Director
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Date: JUN 12 2015

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6-12-15
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