

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 ADULT AND COMMUNITY CARE PROGRAMS

CHAPTER 1418

ADULT FOSTER CARE SERVICES

§17-1418-1	Purpose
§17-1418-2	Goals
§17-1418-3	Definitions
§17-1418-4	Eligibility requirements
§17-1418-5	Scope of services
§17-1418-6	Authorization of payments
§17-1418-7	Reduction or termination of services or payments

Historical Note: Chapter 17-1418 is based substantially upon chapter 17-831. [Eff 7/19/82; am 11/01/82; am and comp 12/23/83; am 6/14/84; am and comp 8/09/86; am 9/3/87; am and comp 8/30/91; R 6/29/92]

§17-1418-1 Purpose. The purpose of this chapter is to establish the scope, and the eligibility requirements for the receipt of adult foster care services. Adult foster care services shall be provided by the department to disabled adults who meet eligibility requirements specified in section 17-1418-4. [Eff 6/29/92; comp 4/17/95; am and comp 12/5/97; comp 1/23/03] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-14, 346-53)

§17-1418-2 Goals. Adult foster care services shall be provided in accordance with the following goals:

- (1) To prevent or reduce inappropriate or premature institutional care by providing community-based care; and
- (2) To prevent or remedy neglect, abuse, or exploitation of adults who are unable to

UNOFFICIAL

§17-1418-2

independently protect their own interests.
[Eff 6/29/92; comp 4/17/95; comp 12/5/97;
comp 1/23/03] (Auth: 45 C.F.R.
§1396.5 (d), HRS §§346-14, 346-83) (Imp: 42
U.S.C. §1397)

§17-1418-3 Definitions. For the purpose of this chapter:

"Activities of daily living" means eating, bed or chair transfer, or both, dressing, bathing, toileting and continence.

"Adult foster care services" means services, specified in section 17-1418-5, provided by the department to individuals who meet the eligibility requirements specified in section 17-1418-4, and are in or are seeking placement in a domiciliary care home.

"Domiciliary care home" means any facility which provides twenty-four hour living accommodations and 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 include special treatment, nursing, nor acute care facilities. There are two types of licensed adult residential care homes:

- (1) Type I home for five or less residents; and
- (2) Type II home for six or more residents.

"Level of care" means the amount of supervision and assistance required by an individual to carry out the activities of daily living, socializing, and meeting health care needs.

"Level of care I" means minimal care, supervision, and assistance are needed by the individual who is able to manage most activities of daily living, socializing and health care needs independently.

"Level of care II" means moderate care, supervision, and assistance are needed by the individual who is able to manage some physical, mental, health care, and social functions but requires reminders, assistance, and supervision in performing several activities of daily living.

"Level of care III" means considerable care, supervision, and assistance are needed by the individual who is unable to manage many physical, mental, and social functions, activities of daily living, and health care needs without help. This level

includes recipients of services delivered by the developmentally disabled/mental retardation home and community-based services program.

"Special care needs individual" means a domiciliary care facility resident who is certified by a physician for a higher than Level III care and is awaiting placement in a nursing facility providing the higher level of care.

"State supplemental payments" means state funded payments made to individuals who are current recipients of supplemental security income (SSI), or state funded aid to the aged, blind, and disabled (AABD), or general assistance (GA) payments and who are residents of domiciliary care homes. These are provided by the state legislature through general fund appropriations to provide payments for the special care needs individual. [Eff 6/29/92; am and comp 4/17/95; am and comp 12/5/97; comp 1/23/03] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-1, 346-14, 346-53, 321-15.1; 42 U.S.C. §1397a)

§17-1418-4 Eligibility requirements. (a) In order to be eligible for adult foster care services, the individual shall meet one of the following requirements:

- (1) Income maintenance status as specified in section 17-1416-20(2)(A); or
- (2) Without regard to income status for individuals who require protective services as specified in section 17-1416-20(2)(B). When the department determines that protection is no longer needed as specified in section 17-1421-15, the recipient shall be assisted to apply for adult foster care services, and eligibility shall be established as specified in paragraph (1).

(b) In addition to meeting categorical eligibility requirements specified in subsection (a), the individual shall meet the following program eligibility requirements:

- (1) The individual requesting placement services shall:
 - (A) Need assistance with placement; and
 - (B) Have no other agency or resource available to provide the needed service; or
- (2) The individual requesting case management

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§17-1418-4

services shall:

- (A) Be a domiciliary care home resident;
- (B) Need assistance with adjustment problems to maintain the placement; and
- (C) Have no other agency or resource available to provide the needed service.
[Eff 6/29/92; am and comp 4/17/95; am 10/28/95; comp 12/5/97; comp 1/23/03] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-14, 346-53)

§17-1418-5 Scope of services. (a) Placement services include one or more of the following activities for the individual meeting eligibility requirements specified in section 17-1418-4:

- (1) Determination that domiciliary care home placement is appropriate;
- (2) Assistance to the individual in learning about, applying for, and receiving income entitlements such as social security benefits, state supplemental payments, veterans' benefits, or financial assistance;
- (3) Placement into an appropriate domiciliary care home; and
- (4) Monitoring of the individual's domiciliary care home placement to assist with adjustment and to maintain the placement, as appropriate.

(b) Case management services include one or more of the following activities for the individual meeting eligibility requirements specified in section 17-1418-4:

- (1) Provision of services to the individual in placement and to the individual's relatives and friends, including:
 - (A) Counseling to resolve problems which made the individual's placement necessary; and
 - (B) Preparing and arranging with the individual, caregivers, and relatives or friends for the individual's return home or move to another out-of-home placement, including other long-term permanent care, as appropriate; and
- (2) Assistance to remain in a particular domiciliary care home if the individual does not wish to be moved and the operator is

UNOFFICIAL

§17-1418-6

agreeable to the individual remaining, except when:

- (A) The individual requires a higher level of care than the current home is able to provide; or
- (B) The individual no longer needs domiciliary care services.

(c) The services specified in subsections (a) and (b) shall be continued for a period not to exceed ninety calendar days after the department determines the individual's placement to be stable. The department's determination of stability shall include input from the individual and home operator and be based on there being no problems which would interfere with the individual continuing in the placement. [Eff 6/29/92; am and comp 4/17/95; comp 12/5/97; comp 1/23/03] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-14, 346-53, 42 U.S.C. §1397c)

§17-1418-6 Authorization of payments. (a) Monthly state supplemental payments for special care needs individuals shall be authorized for individuals who require higher than level of care III care and who, as determined by the department, meet the following conditions:

- (1) The individual shall be a resident of an adult domiciliary care home who at initial placement was appropriately evaluated as needing level of care I, II, or III;
- (2) The individual's condition has deteriorated following initial placement into domiciliary care and the individual has been identified as a level of care III resident certified by a physician as needing care in a nursing facility; and
- (3) The individual is put on a waiting list for placement in a nursing facility.
- (4) Exception: An individual approved for special care needs payments prior to July 19, 1982 and who does not meet the requirements of this subsection shall be exempt from meeting the requirements as long as the individual remains in the home in which the individual was first assessed as having special care needs. However, all of the requirements of this subsection shall be met when the following occurs:

UNOFFICIAL

§17-1418-6

- (A) The individual transfers to another domiciliary care facility; or
- (B) The individual is temporarily admitted to a medical facility for treatment and is discharged to the same home the individual resided in prior to entering the medical facility.

(b) The department shall authorize state supplemental payments on a full-month basis except when an individual is transferred within the month to another domiciliary care home. The department shall prorate state supplemental payments to meet the individual's needs in both homes.

(c) A full month payment shall be made by the department for an eligible individual who is temporarily admitted to a medical facility for treatment or who goes home on a trial basis, on overnight visits or on an emergency. The individual's absence from the domiciliary care home cannot exceed thirty days at any one time. In addition:

- (1) The individual approved for special care needs payments after July 19, 1982 who is temporarily admitted to a medical facility shall:
 - (A) Continue to have need for more than domiciliary care upon discharge from the medical facility; and
 - (B) Return to the same domiciliary care home the individual resided in prior to entering the medical facility because a vacancy in a more appropriate higher level facility is not available; or
- (2) The individual who was approved for special care needs payments prior to July 19, 1982 and who does not meet the requirements of subsection (a) shall be discharged to the same domiciliary care home the individual resided in prior to being temporarily admitted to a medical facility.

(d) State supplemental payments shall be payable by cash payments to the individual or legal guardian.

(e) State supplemental payments for special care needs to individuals in domiciliary care homes shall not in any case exceed the amount appropriated by the state legislature. The eligibility period for the special care state supplemental payment is effective July 1, 1980. An individual who was placed after July 1, 1980 shall receive special care needs payments

effective from the month the department determines the individual to be a special care needs individual and through the month the department revokes the special care need determination.

(f) Effective October 1, 2002, state supplemental payments will not be approved for new recipients.

(g) Individuals approved to receive state supplemental payments prior to October 1, 2002, may continue to receive their payments. The conditions of subsections (a) through (e) shall continue to be applied to and met by individuals receiving payments under this subsection. [Eff 6/29/92; am and comp 4/17/95; am and comp 12/5/97, am and comp 1/23/03] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-14, 346-53)

§17-1418-6.1 Other payments. The department shall authorize payments to adult residential care home operators when funds for the payments are appropriated by the legislature. [Eff 1/2/06] (Auth: HRS §346-83) (Imp: HRS §346-83, Act 178, SLH 2005)

§17-1418-7 Reduction or termination of services or payments. The department shall reduce or terminate services or payments to the individual in accordance with section 17-1416-44 when one or more of the following occurs:

- (1) Conditions for the reduction or termination of services specified in section 17-1416-45 are met;
- (2) Friends or relatives express willingness and are able to assist without charge to the recipient;
- (3) The individual no longer requires adult foster care placement services;
- (4) The individual does not meet eligibility requirements specified in section 17-1418-4;
- (5) The individual leaves the State;
- (6) The individual moves and leaves no forwarding address or the individual's whereabouts are unknown;
- (7) The individual requests termination of services;
- (8) The individual requires services which are not within the scope of services specified in section 17-1418-5;

UNOFFICIAL

§17-1418-7

- (9) The level of care required by the individual is higher than that which the domiciliary care home operator is able to provide;
- (10) The department lacks resources to provide state supplemental payments for adult foster care services as specified in section 17-1418-5; or
- (11) The individual dies. [Eff 6/29/92; am and comp 4/17/95; am and comp 12/5/97; comp 1/23/03] (Auth: HRS §§346-14, 346-15, 346-53) (Imp: HRS §§346-14, 346-15, 346-53)