

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 COMMUNITY LONG-TERM CARE PROGRAMS

CHAPTER 1438

NURSING HOME WITHOUT WALLS PROGRAM

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Historical Note: This chapter is based substantially upon subchapter 6 of chapter 17-749, subtitle 8, Hawaii Administrative Rules. [Eff 10/14/83; am 6/23/86; am 5/6/91; R JUN 29 1992 ]

§17-1438-1 Goal. Nursing home without walls services provided under this chapter shall be directed at providing home and community-based long-term care services to assist persons with disabilities and severe or chronic illnesses to remain in or return home as an alternative to institutionalization. [Eff JUN 29 1992 ] (Auth: HRS §346-14) (Imp: HRS §346-64)

§17-1438-2 Definitions. As used in this chapter:

"Acuity level A" means a nursing facility level of medical care (formerly ICF), whereby clients require services to maintain, improve/safeguard health, or to minimize disability or pain, and is a lower level of services than those provided for clients at the acuity level C.

"Acuity level C" means a nursing facility level of medical care (formerly SNF), whereby clients require skilled services that are either directly provided by, or under the supervision of skilled technical or professional personnel who meet certain qualifications: registered nurse (RN), occupational therapist (OT), physical therapist (PT), speech pathologist, audiologist.

"Adult day health care services" means an organized program of therapeutic, social and health activities and services provided to clients with functional impairments, for the purpose of restoring or maintaining the individual's optimal capacity for self-care.

"Applicant" means an individual who has applied for the nursing home without walls program but who has not received final action on the application.

"Case management services" means the assessment of client needs and planning, locating, coordinating and monitoring the comprehensive group of services in the client's plan of care.

"Client" means an individual who meets the eligibility criteria defined in section 17-1438-3; voluntarily selects nursing home without walls services; and is admitted to the nursing home without walls program.

"Congregate" or "home-delivered meals" means the provision of nutritionally sound meals either in a congregate setting or delivered to the home of the client.

"Contractor" means any agency or organization which has entered into a written agreement with the department to provide nursing home without walls services.

"Department" means the department of human services.

"Direct skilled nursing" means the provision of skilled nursing services including, but not limited to: observation and assessment of the client's changing condition; client education; skilled rehabilitation

services; intravenous, intramuscular or subcutaneous injections and intravenous feedings; tube feedings; nasopharyngeal and tracheostomy aspiration; insertion, sterile irrigation and replacement of catheters; application of dressings involving prescriptive medicines and aseptic techniques; treatment of extensive decubitus ulcers or other widespread skin disorders; heat treatments which have been specifically ordered by a physician as part of active treatment and which require observation by a nurse to adequately evaluate the client's progress; initial phases of a regimen involving administration of medical gases; and rehabilitation nursing procedures including the related teaching and adaptive aspects of nursing that are part of active treatment.

"Emergency alarm response system" means an electronic system placed in homes of high risk clients to enable them to secure immediate help in the event of a physical, emotional, or environmental emergency.

"Environmental modifications" means the provision of change to the dwelling unit to promote safety or facilitate the client's self-reliance by enabling the client to perform basic activities of daily living. Modifications may include installation of ramps and handrails; widening of doorways; removal of other architectural barriers; and modifications to the telephone system.

"Federal poverty level" means the official nonfarm poverty level for Hawaii which is based on family size and annually adjusted by the federal Office of Management and Budget.

"Habilitation services" means the provision of health services, social services, or specialized training which are needed to ensure the optimal independent functioning of the person with a disability or chronic illness and may include:

- (1) "Respiratory therapy" means the performance of preventive, maintenance, and rehabilitative airway-related techniques and procedures including application of medical gases, humidity, and aerosols, intermittent positive pressure, artificial ventilation, the administration of drugs through inhalation; related airway management, client care, instruction of clients, provision of consultation to other health personnel, and

maintenance of equipment and instruction to the client and the family in the use of such equipment.

- (2) "Training for the visually impaired" means the provision of services which will enable the person with a visual impairment to live independently and perform the maximum possible amount of self-care, including low vision assessments; provision of low vision optical aids and training in the use of these aids; and professional services in rehabilitation of the blind and visually impaired.

"Home maintenance" means those services not included under homemaker services, but which are necessary to maintain a clean, sanitary and safe living environment, including heavy duty cleaning, yard work, minor repairs, and extermination.

"Homemaker services" means the provision of in-home supportive services which will enable a family to remain intact during a period of crisis; train the primary family caregiver to improve household management and client care; maintain or improve the disabled client's ability to live independently in a completely functioning, sanitary, and safe home environment.

"Moving assistance" means arranging for and making available assistance in locating other living arrangements and in all the activities involved in preparing for the move, actual moving, and re-establishing the client in the new home.

"Non-medicaid recipient" means a client whose income is at least one-hundred percent and does not exceed three hundred percent of the federal poverty level for Hawaii and whose assets do not exceed four hundred percent of the current medicaid limit.

"Nursing home without walls" means a program of comprehensive services, defined in section 17-1438-4, for individuals residing at home or in the home of a responsible adult.

"Nutritional counseling" means services provided by a nutritionist or dietician to a client or client's family regarding proper nutrition which shall include assessment of nutritional status and food preferences; planning for provision of appropriate dietary intake within the realm of the client's home environment and

cultural considerations; nutritional education regarding special therapeutic diets as part of the treatment milieu; development of a specific nutritional treatment plan; ongoing evaluation and revision of nutritional plans; provision of in-service education to home services staff as well as consultation on specific dietary problems of clients; and nutrition teaching to clients and families.

"Personal care" means the provision of assistance with activities of daily living such as ambulation, mobility, transfer and lifting, positioning and turning, bowel and bladder care, toileting, bathing, dressing, grooming, feeding, exercise and range of motion, and assisting with medications which are normally self-administered; and instrumental activities of daily living which are directly related to the well-being of the client, such as meal preparation, bed, kitchen and bathroom cleanliness, essential errands, and maintenance of health records.

"Plan of care" means a written plan that indicates problems/needs, goals or desired outcomes, and type, frequency and provider of services; which are agreed upon by the department or its agent, the client, and the medicaid client's physician; and is regularly reviewed and updated.

"Respite care" means the provision of temporary institutional, community or home-based services needed to allow persons, who ordinarily care for the client, relief from these duties.

"Transportation services" means the provision of necessary non-medical transportation to and from facilities, resources, and appointments in order for the client to receive the services included in the plan of care. [Eff JUN 29 1992 ] (Auth: HRS §346-14) (Imp: HRS §§346D-1, 346D-7; 42 C.F.R. §440.180; 42 C.F.R. §440.170)

**S17-1438-3 Eligibility for services. (a)**

Nursing home without walls services shall be available to individuals who are:

- (1) Eligible for federally-funded medical assistance or meet non-medicaid financial eligibility requirements in section 17-1441-4;

- (2) Authorized at acuity level A or acuity level C, by the department's medical consultant or appointed agent;
- (3) Able to receive care under the nursing home without walls program at an annual cost not to exceed limits established by statutory authority;
- (4) Approved for nursing home without walls services by the medicaid client's personal physician and the medicaid representative;
- (5) Provided with a written plan of care which includes provisions for the safety and well-being of the client, that is developed by the case management staff and the client or the person primarily responsible for the client's services; and
- (6) Residing in a home which has a means of unobstructed travel for the client to exit the dwelling.

(b) Continued eligibility for nursing home without walls service shall be redetermined by the department or its agent according to the following schedule:

- (1) Eligibility for federally funded medical assistance shall be verified monthly;
- (2) Financial eligibility for non-medicaid program clients shall be redetermined annually or as changes in income and assets occur;
- (3) Acuity level of medical care shall be redetermined and reauthorized annually or as changes in acuity level occur, using the department's designated form;
- (4) Cost of care shall be itemized and determined monthly; and
- (5) Physician approval of the medicaid client's plan of care shall be obtained annually or as significant changes occur in the medical condition of the client. [Eff

JUN 29 1992 ] (Auth: HRS §346-14) (Imp:  
HRS §§346D-3, 346D-7; 42 C.F.R. §440.180)

§17-1438-4 Provision of services. (a) Nursing home without walls services shall include any service:

- (1) Approved in the home and community-based waiver for the nursing home without walls

program, such as adult day health, case management, direct skilled nursing, home delivered meals, emergency alarm response system, environmental modifications, habilitation, home maintenance, homemaker, moving assistance, personal care, nutritional counseling, respite care and non-medical transportation; and

- (2) Included in a written plan of care.
- (b) Provision of services shall be available to otherwise qualified individuals based on the conditions of the:
- (1) Waiver of statewideness;
  - (2) Waiver of comparability of services; and
  - (3) Level of funding established by the legislature.
- (c) Provision of services will be available to clients residing in a home which is equipped with a U.L. approved smoke detector. [Eff **JUN 29 1992** ]  
 (Auth: HRS §346-14) (Imp: HRS §§346D-3, 346D-7; HRS §346-64; 42 C.F.R. §440.180; 42 C.F.R. §440.170)

**§17-1438-5 Exclusions of nursing home without walls services.** Nursing home without walls services shall not include any services provided during periods of time when the client has been admitted on an inpatient basis to either an acute care hospital or a long-term care facility. [Eff **JUN 29 1992** ] (Auth: HRS §346-14) (Imp: HRS §346D-7; 42 C.F.R. §440.180)

**§17-1438-6 Contractors of nursing home without walls services.** (a) Contractors of nursing home without walls services shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, certification and licensing requirements.

(b) Reimbursement for services shall be based on a negotiated rate between the department and contractor and shall not exceed the aggregate amount in the agreement.

(c) The contractor's written agreement with the department shall be terminated when the contractor fails to comply with the terms stipulated in the agreement. [Eff **JUN 29 1992** ] (Auth: HRS §346-14) (Imp: HRS §§346D-4, 346D-7; 42 C.F.R. §440.180)

§17-1438-7 Payment for nursing home without walls services. (a) The department shall pay for only those nursing home without walls services identified in section 17-1438-4 and specified in a written plan of care made between the client and the department or its agent.

(b) The maximum payment for home and community-based services shall not exceed limits established by statutory authority.

(c) Expenditures for periods of inpatient care in an acute care hospital or long-term care facility shall not be computed into the annual cost of care under the program for the client.

(d) If a medicaid client does not utilize all the funds available for the client's care, "paper credits" shall be accrued on the client's behalf that may be utilized during periods of higher service requirements in the same waiver year.

(e) A non-medicaid recipient shall make a co-payment for nursing home without walls services based on income and family size, as determined by the department.

(f) Funds appropriated for the non-medicaid nursing home without walls program shall be used for non-medicaid recipients who meet the eligibility requirements defined in section 17-1438-3. [Eff

JUN 29 1992 ] (Auth: HRS §346-14) (Imp: HRS §§346D-2, 346D-5, 346D-7; 42 C.F.R. §440.180)

§§17-1438-8 to 17-1438-12 Reserved

§17-1438-13 Decrease or termination of services.

(a) Services to clients of the nursing home without walls program shall be decreased or terminated when:

- (1) Friends or relatives of client express willingness and are able to care for client without charge in lieu of program services;
- (2) The estimated or actual annual cost of care of the clients exceed the aggregate program expenditure ceiling placed on client care costs by the department;
- (3) The contractor refuses to provide requested services;



- (4) The contractor agreement is terminated and no other options are available through contractual agreement; or
- (5) The non-medicaid recipient is delinquent paying the co-payment to the provider for a period of two months.
- (b) Services to clients of the nursing home without walls program shall be terminated when the:
  - (1) Client no longer meets the eligibility criteria of section 17-1438-3;
  - (2) Client or the person primarily responsible for the client's care requests termination from the program;
  - (3) Client or the person primarily responsible for the client's care chooses institutional long-term care in lieu of home and community-based services;
  - (4) The case management staff determines that a regime of services which will assure the safety and well-being of the client at home cannot be provided by the program. Termination can occur after another feasible alternative has been arranged;
  - (5) Client leaves the state; or
  - (6) Client dies.
- (c) Services shall be terminated upon mutual agreement between the client and the department or its agent, or after a written notice has been given to the client declaring the department or its agents intent to terminate services. [Eff JUN 29 1992 ] (Auth: HRS §346-14) (Imp: HRS §346D-7; 42 C.F.R. §440.180)

§17-1438-14 Hearings and appeals. The procedures and provisions of departmental rules for the appeals process and fair hearing shall apply to applicants and clients of the nursing home without walls program when the department denies, suspends, decreases or terminates services for any reason except for a change in state or federal law or a lack of state or federal funding. [Eff JUN 29 1992 ] (Auth: HRS §346-14) (Imp: HRS §346D-7; 42 C.F.R. §440.180)

§17-1438-15 Authorization of services. The nursing home without walls program is authorized by the Health Care Financing Administration under a home and

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community-based services waiver (section 1915(c)) of  
the Social Security Act and by the Hawaii Revised  
Statutes. [Eff **JUN 29 1992** ] (Auth: HRS §346-14)  
(Imp: HRS §346D-7; Pub. L. No. 97-35, §2176 (1981); 42  
C.F.R. §440.180))

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