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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12 MED-QUEST DIVISION

CHAPTER 1724

INCOME

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-1724-1 Purpose. This chapter identifies and describes the types of income which shall be considered in determining an individual's or family's eligibility and coverage in the medical assistance program.
[Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-53; 42 C. F.R. §431.10)

§17-1724-2 Definitions. As used in this chapter:
"Earned income" means cash received or available to be received by the family which require some activity on the part of the family to produce. Examples of earned income include, but shall not be limited to, wages, jury duty income excluding reimbursement for transportation and meals; and self-employment income from the sale of blood, blood plasma, and parts of the body.

"Employer funded" means the employer is paying the temporary disability insurance benefit directly to the individual or is paying premiums to a third party.

"Full-time employed" means an individual who is employed a minimum of one hundred thirty hours a month.

"Nonrecurring lump sum income" means income that would not normally be repeated or a cumulative amount received or available to be received by an individual. Examples of nonrecurring lump sum income include, but shall not be limited to, lump sum payments, annual tax refunds defined as income, retroactive social security benefits, retroactive earned income, insurance settlements, or intermittent income. Educational loans, grants and scholarships shall not be considered nonrecurring lump sum income.

"Self-employment" means the performance of services or sale of goods by an individual or a group of individuals who have the legal right to determine what must be done and how it must be done and who are not subject to the will and control of an employer.

"Student" means a child under age nineteen enrolled in a public or private elementary, secondary school, or in a program of an equivalent level of vocational or technical training, or officially released by the department of education and being provided an education in the home, and a child under eighteen years

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of age attending a post secondary institute, such as a college, vocational school, or technical trade institute.

"Unearned income" means cash received or available to be received by the family which are not classified as earned income. [Eff 08/01/94; am 07/20/95; am 01/29/96; am 11/25/96] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-53; 42 C.F.R. §431.10)

SUBCHAPTER 2

EARNED INCOME

§17-1724-3 Wages. All money received as wages shall be counted as earned income. All sick leave pay, temporary disability benefits (TDI) due to non work related illness, vacation pay, holiday pay, funeral pay, cost of living allowance (COLA), and birthday pay shall be counted as earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: 42 C.F.R. §§435.731, 435.851)

§17-1724-4 Tips. All tips shall be counted as earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-5 Dismissal and severance pay. Dismissal and severance pay shall be counted as earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-6 On-the-job-training (OJT) earnings. All wages received from any on-the-job training program shall be counted as earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-7 Job training partnership act (JTPA). All wages received from funds under the job training

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partnership act shall be counted as earned income unless exempt under subchapter 7. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§ 435.731, 435.851)

§17-1724-8 Public service employment (PSE). All wages received from public service employment shall be counted as earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-14, 346-53; 42 C.F.R. §§435.731, 435.851)

§17-1724-9 In-kind income. (a) In-kind income is any gain or benefit, not in the form of money, paid to an individual and includes perquisites, such as meals, food, shelter, utilities and medical insurance.

(b) For the QUEST program, in-kind income shall not be counted as income if the employee does not have the option of obtaining a cash wage in exchange for the perquisite, or if the employer does not report the value of the perquisite as wages on the employees pay statement. The individual whose perquisite is not counted as income shall not be eligible to have the value of the perquisite included in the individual's standard of assistance.

(c) For the medical assistance only programs for the aged, blind, and disabled, in-kind income shall be considered countable earned income. [Eff 08/01/94; am 01/29/96] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-10 Earned income from self-employment. (a) If the requirements of subsection (b) below are met, income from self-employment shall be determined by deducting from the amount received from the sale of goods or services, those expenses directly related to producing the goods or services. However, items such as depreciation, personal business, and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses.

(b) To be eligible for the deduction of allowable

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expenses identified in subsection (a), a self-employed person shall:

- (1) Not be able to be discharged from the person's job by someone else;
- (2) Report income to the Internal Revenue Service and the State of Hawaii as a self-employed person;
- (3) Meet social security requirements as a self-employed person and shall pay the employer's and the employee's share of social security taxes;
- (4) Not be considered to be an employee of an agency or organization; and
- (5) Be licensed by the State to operate a business.

(c) A self-employed person who does not meet the requirements of subsection (b) shall not be eligible for the deduction of allowable expenses identified in subsection (a). Persons, who do not meet the requirements of subsection (b), shall have the monthly gross income from the work activity counted as the monthly earned income. [Eff 08/01/94; am 07/20/95] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851; Pub. L. No. 101-508)

§17-1724-11 Royalties. Royalties shall be counted as earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-12 Federal earned income tax credit. Federal earned income tax credit payments shall not be considered earned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-13 Entitlements to military personnel. The following are allowances available to military personnel on active duty:

- (1) Basic allowance for quarters, often referred to as quarters allowance, paid to military personnel who are married or who have dependent children and who are not residing in government quarters. This benefit is

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shown under the entitlement (ent) section of the payroll stub as BAQ.

- (A) In the QUEST program, basic allowance for quarters is considered earned income.
 - (B) In the medical assistance programs for the aged, blind, and disabled, basic allowance for quarters is counted as unearned income.
- (2) Basic allowance for subsistence, often referred to as separate rations, paid to military personnel who do not have all meals at the military mess halls because the military personnel are living in nongovernment quarters or do not have access to a military mess hall. This allowance is shown on the payroll stub under the entitlement section (ent) as BAS.
- (A) In the QUEST program, the basic allowance for subsistence is counted as earned income.
 - (B) In the medical assistance programs for the aged, blind, and disabled, the basic allowance for subsistence is counted as unearned income.
- (3) Clothing maintenance allowance often referred to as clothing allowance. This allowance shall be shown on the payroll stub under the entitlement section (ent) as CMA.
- (A) In the QUEST program, clothing maintenance allowance shall not be counted as earned or unearned income.
 - (B) In the medical assistance programs for the aged, blind, and disabled, clothing maintenance allowance is unearned income. [Eff 08/01/94; am 01/29/96] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-14 Temporary disability insurance. Temporary disability insurance benefits which are employer funded or paid to an individual who is considered an employee of that employer shall be considered earned income. [Eff 01/29/96] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

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§§17-1724-15 to 17-1724-19 (Reserved).

SUBCHAPTER 3

UNEARNED INCOME

§17-1724-20 Social security benefits. (a) All social security benefits, shall be counted as unearned income. Social Security benefits may include, but are not limited to:

- (1) Retirement benefits at age sixty-two;
- (2) Disability benefits to individuals who are unable to work because of physical or mental handicaps;
- (3) Survivor's benefits to the spouse of a deceased wage earner; or
- (4) Children's benefits to children of a deceased or disabled parent.

(b) When determining medical assistance only eligibility for aged, blind, and disabled individuals:

- (1) If an overpayment of Social Security benefits occurred when an individual was not receiving Medicaid, any amount recouped from monthly Social Security payment, shall be considered countable income.
- (2) If an overpayment of Social Security benefits occurred when an individual was receiving Medicaid, any amount recouped from the monthly Social Security payment, shall not be considered countable income.

(c) When determining eligibility for medical assistance for QUEST individuals and families, the amount of social security benefits actually received, which may reflect recoupments, shall be the countable benefits amount. [Eff 08/01/94; am 01/29/96]
(Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

17-1724-21 Veteran's benefits. (a) All veterans benefits shall be counted as unearned income.

- (1) Benefits may be available to individuals who served in the Army, Navy, Marine Corps, Coast Guard, or Air Force.
- (2) Dependents and survivors of veterans may also be eligible for veteran's benefits.

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(3) Some of the benefits available are service connected disability pensions, nonservice connected pensions, retirement benefits for veterans with twenty or more years of service, survivor's benefits to parents or children of a deceased veteran, educational benefits, and aid and attendance benefits to totally disabled veterans.

(b) Veterans benefits, prior to any deductions, are generally considered countable income. An exception to the foregoing are educational benefits from which certain education-related expenses are allowed.

(c) VA benefits that are reduced to \$90 for medically institutionalized pensioners with no dependents shall be exempted. [Eff 08/01/94; am 11/25/96] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851; 38 U.S.C. §3203)

17-1724-22 Pension and retirement benefits. (a) All pension and retirement benefits shall be counted as unearned income.

(b) Pensions may be administered by the federal government, state government, city government, unions, private corporations, or trust companies.

(c) Children and spouses of the retired employee may also be eligible for pension benefits.

(d) The equity in a retirement plan shall not be considered available when the individual is employed and unable to withdraw or make the money available during the individual's term of employment.

(e) Pension and retirement benefits, prior to any deductions, are considered countable income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-23 Unemployment insurance benefits. (a) All unemployment insurance benefits shall be counted as unearned income. Unemployment insurance benefits may be available to any individual who has worked in covered employment.

(b) The amount withheld from unemployment insurance benefit payments to recover overpayments or to pay child support obligations shall not be considered countable income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

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§17-1724-24 Supplemental security income benefits. SSI benefits shall not be counted as income in eligibility determination. In the post-eligibility treatment of income of persons in medical institutions, SSI shall be countable income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-25 Worker's compensation benefits. (a) All worker's compensation benefits prior to any deductions shall be counted as unearned income in determining eligibility. This benefit may be available to an employee whose injury is job related. The amount of benefits shall depend upon the severity of the injury and upon the earnings of the employee.

(b) Worker's compensation benefits, prior to tax deductions, are countable when determining eligibility. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-26 Railroad retirement benefits. (a) All railroad retirement benefits shall be counted as unearned income. This benefit may be available to any person who worked for a United States railroad company.

(b) Railroad retirement benefits, prior to any deductions, are considered countable income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-27 Strike benefits. (a) Cash received by a family on strike shall be counted as unearned income.

(b) Strike benefits, prior to any deduction, are generally considered countable unearned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-28 Legal settlements, inheritance, insurance settlements, and compensations. (a) Money received to settle any insurance, legal, or inheritance claim shall be counted as unearned income.

(b) Personal injury awards and compensation for pain and suffering shall be counted as unearned income.

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(c) Any expense paid which is related to the settlement or award shall be deducted from the total settlement or award.

- (1) Examples of allowable expense deductions include, but shall not be limited to, legal fees, medical payments, motor vehicle replacement, or replacement of personal property damaged or lost; and
- (2) The individual shall submit verification of the paid expense within thirty days from the date the settlement is received to receive a deduction for the expense. [Eff 08/01/94; am 02/10/97] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-29 Educational loans, grants, scholarships, and benefits. (a) Any educational loans, grants, or scholarships, not excluded in subchapter 7, obtained and used under conditions that preclude their use for current living expenses shall not be counted as income.

(b) Any educational loans, grants, or scholarships not excluded in subchapter 7, which are obtained and used for current living expenses shall be counted as income.

(c) Any scholarships or educational benefits specifically excluded in subchapter 7 shall not be counted as income.

(d) That part of the payment from educational grants or scholarships received for the student's dependents for current living expenses shall be counted as unearned income.

(e) That part of the payment from educational grants or scholarships that is for the student and that is actually used for items such as tuition, books, fees, equipment, transportation for school purposes, or child care services necessary for school attendance, shall not be counted as unearned income.

- (1) The expenses specified in this subsection shall be deducted first from the scholarships, loans or educational benefits specifically excluded in subchapter 7.
- (2) The expenses specified in this subsection which exceed the excluded benefits of subchapter 7 shall then be deducted from any

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non-excluded scholarship or educational benefits.

(f) Educational loans, grants, and scholarships that are received in a lump sum and not excluded by other rules shall be prorated over the period covered by the income to determine the monthly amount that shall be budgeted. The expenses specified in subsection (e) shall be deducted from the lump sum prior to the proration and any other allowable expenses incurred after the proration shall be deducted from the monthly prorated amount for the month the expense is paid. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-30 Alimony. All alimony payments shall be counted as unearned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-31 Child support payments. Child support payments shall be considered unearned income. [Eff 08/01/94; am 01/29/96; am 05/17/97] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-32 Regular cash contributions. All regular cash contributions shall be counted as unearned income. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-33 Lump sum benefits. (a) When financial assistance benefits are terminated due to receipt of lump sum income:

- (1) The standard of need used to determine the period of ineligibility for financial assistance is deemed to be monthly unearned income to determine eligibility for the medical assistance program;
- (2) The financial assistance standard of need is budgeted as income for the number of months equal to the financial assistance period of ineligibility.

(b) Any other lump sum cash benefit, which is not considered to be earned income and not exempt in

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subchapter 7, shall be counted as unearned income in the month of receipt. [Eff 08/01/94; am 01/29/96; am 12/27/97] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.631, 435.601)

§17-1724-34 Occasional gifts. (a) For QUEST cases, occasional gifts in excess of \$30 per recipient per calendar quarter shall be counted as income.

(b) For ABD related medical assistance cases, occasional gifts and contributions in excess of \$20 per assistance unit per month shall be counted as income. [Eff 08/01/94; am 01/29/96] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-35 Assistance from other agencies and organizations. (a) Assistance provided by any public or private agency shall not be counted as income if no duplication exists between such other assistance and that provided by the department. Non-duplication of assistance shall be assured by:

- (1) The different purpose for which the other agency grants aid such as vocational rehabilitation; or
- (2) The provision of goods and services that are not included in the department's standard of assistance. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-36 REPEALED. [Eff 08/01/94; R 01/29/96] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.831, 435.851)

§17-1724-37 Income of Sponsor of an alien.

(a) The income of a sponsor of an alien, who executed an affidavit of support form on or after December 19, 1997, shall be deemed to be the income of an alien requesting medical assistance. The income of the sponsor's spouse shall also be deemed available to the alien.

(b) The income of a sponsor of an alien and the sponsor's spouse shall be deemed available to the alien until such time as the alien:

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- (1) Achieves United States citizenship through naturalization pursuant to chapter 2 of Title III of the Immigration and Nationality Act; or
- (2) Has worked forty qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with such qualifying quarters as provided under 8 U.S.C. §1645. In the case of any such qualifying quarter beginning after December 31, 1996, the alien must not have received any Federal means-tested public benefit during any such period.
- (c) The alien's failure to provide information and verification regarding the alien sponsor's income shall disqualify the alien from receiving medical assistance.
- (d) The income of a sponsor of an alien and the sponsor's spouse shall not be deemed available to an alien for coverage of emergency medical assistance as described in chapter 17-1723. [Eff 08/01/94; am 04/11/03] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.631, 435.831; 8 U.S.C. §§1631, 1632)

§17-1724-38 Temporary disability insurance. Temporary disability insurance benefits which are not employer funded shall be considered unearned income. [Eff 01/29/96] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.851)

§17-1724-39 Rental income. (a) Payments received for the use of real or personal property such as land, housing, or machinery is considered unearned income unless the owner is in the business of renting properties. Property owners who meet the requirements of section 17-1724-10 shall have rental income considered as earned income.

(b) Expenses that are necessary for the production or collection of rental income may be deducted when paid. Examples of expenses include:

- (1) Interest on the mortgage;
- (2) Property insurance;
- (3) State and local taxes;
- (4) Maintenance fees; and

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(5) Management fees.

(c) Payment of the principal portion of a mortgage, depreciation and depletion is not deductible. [Eff 11/25/96] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: 42 C.F.R. §§435.121, 435.135; 20 C.F.R. §416.1121)

§17-1724-40 Interest income. (a) The dollar value of interest received by an individual or credited to an account of an individual from any bank, loan, or other source shall be considered unearned income.

(b) The interest paid on dividends from life insurance, or other sources shall be considered unearned income. [Eff 06/19/00] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: 20 C.F.R. §416.1121; 42 C.F.R. §§435.121, 435.135; 435.601)

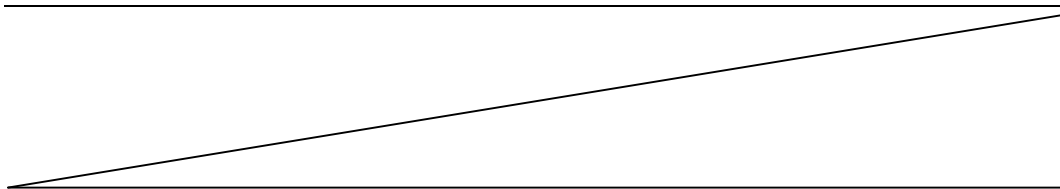
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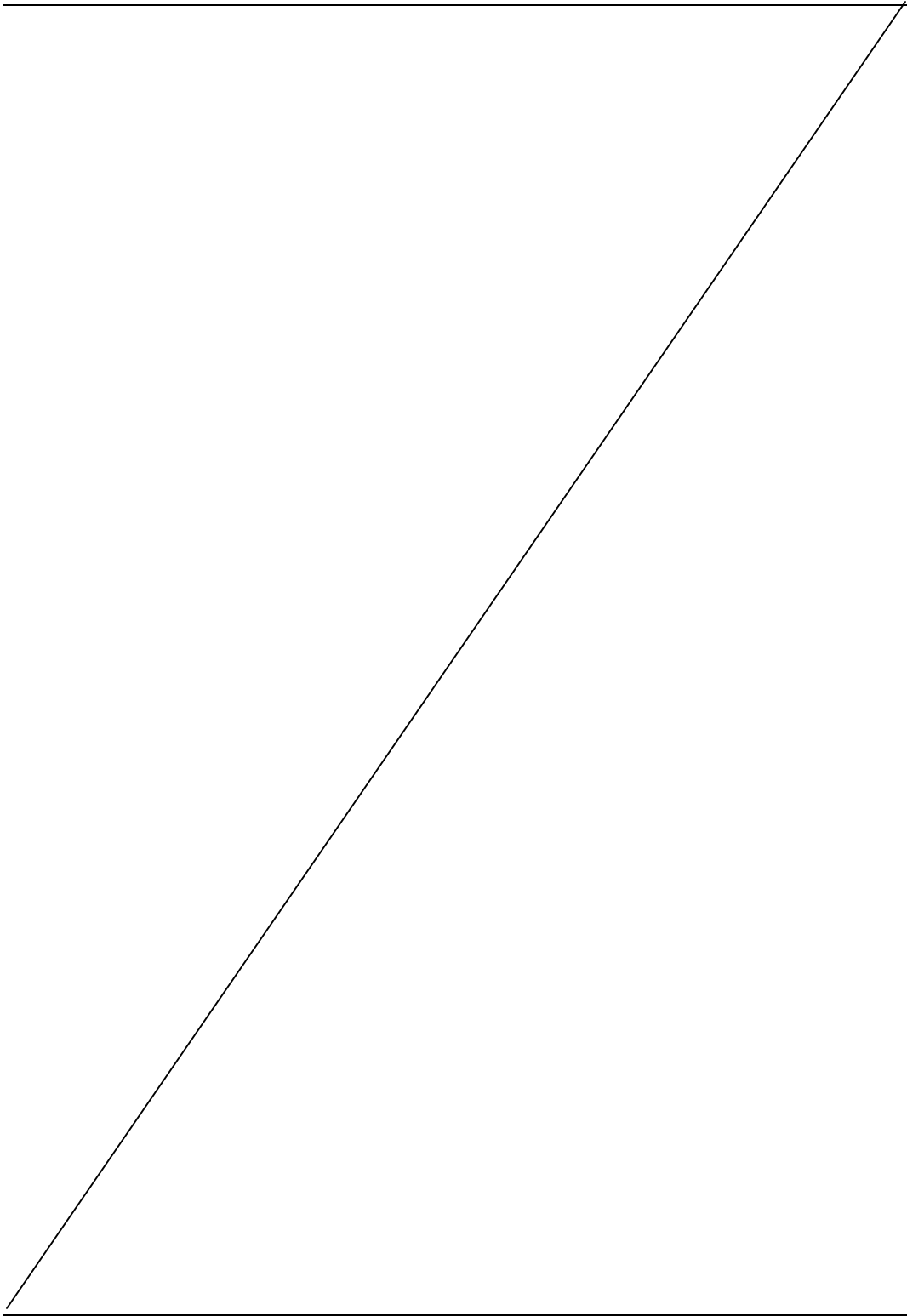
TREATMENT OF INCOME

§17-1724-43 Rounding off income. There are no provisions for rounding off to whole dollar amounts when computing or determining income in the medical assistance only program. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1724-44 Determining monthly income. (a) The determination of monthly income is dependent on the period for which assistance is being requested and the circumstances involved. The following methods shall be used to determine income:



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- (1) When determining income for a month prior to the current month, the actual income received within that month shall be considered income for that month.
 - (2) When determining income for the current month, income already received, in addition to any income anticipated to be received within the current month, shall be considered income for that month.
 - (3) When determining income for a future month, income anticipated shall be calculated by one of the following methods:
 - (A) Weekly income shall be multiplied by $4\frac{1}{3}$ to convert to monthly income;
 - (B) Bi-weekly income shall be multiplied by $2\frac{1}{6}$ to convert to monthly income;
 - (C) The income received in the month immediately prior to the current month can be used for the projection, when no significant fluctuation is anticipated; or
 - (D) An average of the immediately prior three months can be utilized in the absence of any factors which will significantly fluctuate income within the period to be certified.
- (b) A prospective period of not more than six months shall be used to compute monthly income of any individual or a family.
- (c) For income of relatives, section 17-1724-46 shall apply. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: 42 C.F.R. §435.831)

SUBCHAPTER 5

AVAILABILITY OF INCOME FOR SUPPORT

§17-1724-45 Purpose. The purpose of this subchapter is to describe the persons whose income are considered available for support of applicants and recipients in the medical assistance only programs. [Eff 08/01/94] (Auth: HRS §346-53) (Imp: HRS §346-29)

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§17-1724-46 Availability of income. (a) The income of spouses living in the same household shall be considered available to each other, whether or not actually contributed.

(b) When spouses cease to live together due to the institutionalization of one spouse, only the income actually contributed from one spouse to the other shall be considered available to the receiving spouse, as of the month of separation.

(c) An individual receiving home and community based waiver services or hospice services shall be considered institutionalized and separated from the individual spouse, even if they are physically living together. The provisions of subsection (b) therefore apply to the individual and the individual's spouse.

(d) If both spouses apply or are eligible as aged, blind, or disabled and the spouses cease to live together for reasons other than the institutionalization of one spouse, their income shall be considered available to each other for the month of separation and the six months following that month. If the mutual consideration of income causes the spouses to lose eligibility as a couple, their income will be considered according to subsection (e).

(e) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together for reasons other than institutionalization, only the income of the ineligible spouse that is actually contributed to the eligible spouse, beginning with the month after the month of separation, shall be considered available to the eligible spouse.

(f) When determining the eligibility of a child under eighteen applying for or receiving medical assistance only coverage as a blind or disabled individual:

- (1) If the child is living with a parent or the spouse of a parent, the income of that parent or of that spouse of the parent shall be considered available to the child, whether or not actually contributed;
- (2) If the child ceases to live with a parent or the spouse of a parent, only the income of that parent or spouse that is actually contributed shall be considered available to the child, beginning with the month after the month of separation. This provision applies even if the child returns to the household for periodic visits; or

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(3) The provisions of paragraphs (1) and (2) apply to a child under nineteen living in the same household.

(g) In families which include children under nineteen, the income of parents, natural, legal, and adoptive, shall be considered available to their children. If a minor with income is included in the applicant or recipient household, the minor's income is considered in the determination of eligibility. If the minor is not included in the applicant or recipient household, the minor's income is not considered in the determination of eligibility.

(h) For children covered under a State adoption agreement, the income of the adoptive parent shall not be considered available to the child when determining eligibility for medical assistance only.

(i) The income of a parent or legal guardian shall be used to determine the QUEST eligibility of an individual age eighteen but less than age twenty-one, who is claimed as a federal or state tax dependent by the parent or legal guardian. [Eff 08/01/94; am 07/20/95; am 01/29/96; am 12/27/97] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: 42 C.F.R. §435.602; 42 U.S.C. §1396r-5)

§§17-1724-47 to 17-1724-50 (Reserved).

SUBCHAPTER 6

AVAILABILITY AND VERIFICATION OF INCOME

§17-1724-51 Availability and verification of income. (a) All individuals shall apply for and develop potential sources of income.

(b) The department shall deny or terminate medical assistance only when the individual fails to apply for and develop potential sources of income and fails to provide the department with verification to determine the amount of the income.

(c) When the department determines that an individual or family has failed to cooperate in providing information, supported by documents to determine eligibility, the individual or family shall be ineligible for medical assistance only. Failure to cooperate includes, but is not limited to failure to

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provide accurate and complete information, failure to provide verification, or any other action on the part of the individual that prevents a correct determination of eligibility. [Eff 08/01/94] (Auth: HRS §§346-14, 346-29, 346-53) (Imp: 42 C.F.R §435.603)

§§17-1724-52 to 17-1724-55 (Reserved).

SUBCHAPTER 7

DISREGARDED INCOME AND INCOME EXEMPTIONS

§17-1724-56 Disregarded income and income exemptions allowed for all medical assistance only programs. The department shall exempt all of the following income in determining eligibility for medical assistance only:

- (1) The value of the food stamp payments under the Food Stamp Act of 1977 (7 U.S.C. §§2011-2027);
- (2) The value of the U. S. Department of Agriculture donated foods (surplus commodities);
- (3) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§4601-4655);
- (4) Any grant or loan to any undergraduate or graduate student made or insured under programs administered by the United States Secretary of Education, Title IV of the Higher Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. §2301), or the Bureau of Indian Affairs student assistance programs which includes but is not limited to:
 - (A) Pell Grants;
 - (B) Supplemental Educational Opportunity Grant (SEOG);
 - (C) National Direct Student Loans;
 - (D) Guaranteed Student Loans;
 - (E) Hawaii Student Incentive Grant (HSIG);
 - and
 - (F) College work study;

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- (5) Any educational grant or scholarship from sources other than those listed in paragraph (4) that are obtained or used under conditions that preclude their use for current living expenses;
- (6) Payments distributed per capita to or held in trust for a member of any Indian tribe under 25 U.S.C. §§459-459e, 1261-1265, 1401-1407, and Pub. L. No. 94-540;
- (7) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. §1620);
- (8) Payments made to volunteers under the Domestic Volunteer Service Act of 1973 (Volunteers In Service to America) (VISTA), student volunteers enrolled in institutions of higher education who participate in the University Year for Action (UYA) program, foster grandparents, senior health aides, senior companions (42 U.S.C. §§4951-5085) and persons under the Small Business Act (Service Corps of Retired Executives (ACE) (15 U.S.C. §637);
- (9) Monthly incentive payment made under the Work Incentive Program of the Social Security Act (42 U.S.C. §§630-644);
- (10) Any energy assistance received under Pub. L. No. 97-35, the Home Energy Assistance Act of 1980 (45 U.S.C. §§8621-8629);
- (11) Fosterchild's board payment to licensed foster care parents;
- (12) Food which is raised, produced, or procured by the family through the family's own efforts;
- (13) The value of medical insurance, employer's share of contributions to a pension fund, and employer's share of social security contributions;
- (14) Housing and Urban Development (HUD) refund payments pursuant to Underwood vs. Harris, No. 76-469 (D.D.C. March 22, 1976) received by applicants and recipients of financial assistance shall be disregarded as income and assets in the month received and in the following month. After this period, any remaining portions of the refund payment shall be included in the family's personal reserve standard;
- (15) Supplemental Security Income benefits;

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- (16) Reparation payments provided to World War II internees under the Civil Liberties Act of 1988, Title I of Pub. L. No. 100-383, and the Aleutian and Pribilof Islands Restitution Act, Title II of Pub. L. No. 100-83;
- (17) Effective January 1, 1989, all Agent Orange Settlement payments, to include payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement of the In Re Agent Orange product liability litigation;
- (18) The income of the sponsor of an alien and the sponsor's spouse are not considered when determining eligibility of an alien when an affidavit of support was executed before December 19, 1997 on behalf of the alien;
- (19) Bonafide loans from any source including but not limited to educational loans, shall not be counted as income. A bonafide loan is a debt that the borrower has an obligation to repay;
- (20) Effective August 1, 1994, payments to victims of Nazi persecution under Pub. L. No. 103-286;
- (21) VA benefits for unusual medical expenses (UME);
- (22) VA benefits that are reduced to \$90 for veterans in medical institutions who do not have dependents;
- (23) Payments received under the Radiation Exposure Compensation Act (Pub.L. No. 101-426) to compensate individuals for injuries or death resulting from the exposure to radiation from nuclear testing or uranium mining;
- (24) Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA) and other comparable disaster assistance provided by any state or local government agency or disaster assistance organizations;
- (25) Criminal Injuries Compensation issued pursuant to the Victims of Crime Act of 1984 to include, but not limited to, compensation paid by the Hawaii Criminal Injuries Compensation Commission;
- (26) Payments received from any fund as a result

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- of the settlement in the case of Susan Walker v. Bayer Corporation, et al, to compensate individuals who contracted the H.I.V. virus from contaminated blood products pursuant to Title IV, section 4735 of the Balanced Budget Act of 1997 (Pub L 105-33); and
- (27) VA payments received by or on behalf of certain Vietnam veterans' natural children for any disability resulting from spina bifida under Pub. L. No. 104-204. [Eff 08/01/94; am 01/29/96; am 11/25/96; am 05/02/98; am 10/26/01; am 12/03/01] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: Pub. L. No. 97-248; 20 C.F.R. §416.1124; 42 C.F.R. §§435.121, 435.135; 8 U.S.C. §§1631, 1632)

§17-1724-57 Income exemptions allowed for the QUEST medical assistance only program. The department shall exempt all of the following income when determining eligibility for the QUEST program:

- (1) The earned income of each child who is a student;
- (2) The value of free school lunches, provided under the Child Nutrition Act of 1966 and the National School Lunch program (42 U.S.C. §§1771-1789); and
- (3) The federal earned income tax credit, including the advance payments as income in the month it is received when determining the family's eligibility for medical assistance. [Eff 08/01/94; am 01/29/96; am 05/17/97; am 05/10/03] (Auth: HRS §364-14; 42 C.F.R. §431.10) (Imp: 42 C.F.R. §435.711)

§17-1724-58 Income exemptions allowed for medical assistance only programs for the aged, blind, and disabled. The department shall exempt all of the following income in determining medical assistance:

- (1) Earned income of each blind or disabled child who is a student under age twenty-two, up to \$400 in a calendar month with an overall limit of \$1,620 per calendar year;

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- (2) Any meals provided to senior citizens, such as congregate meals, or home delivered meals funded by the Older American Act of 1965 (42 U.S.C. §§2001-3057)
- (3) The amount of RSDI cost of living allowance for recipients who lose SSI benefits for any reason;
- (4) The increase in disabled widow's or widower's benefits resulting from the elimination of the reduction factor required by Pub. L. No. 98-21, §134 (42 U.S.C. §1383c(b)), and subsequent cost of living adjustments for disabled widows and widowers who lost SSI/SSP benefits, but who would be eligible if the amount of that increase and subsequent cost of living adjustments were disregarded;
- (5) Austrian social insurance payments granted exclusively under paragraphs 500 to 506 of the Austrian General Social Insurance Act; and
- (6) The amount of RSDI cost of living allowance for recipients who lose SSI/SSP benefits as a result of RSDI cost of living increases received after April 1977 required by §503 of Pub. L. No. 94-566. [Eff 08/01/94; am 11/25/96; am 10/26/01] (Auth: HRS §346-14; 42 C.F.R. §435.831) (Imp: 42 U.S.C. §1383c(b)); 42 C.F.R. §§435.121, 435.135, 435.137)