

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 835

PERMANENCY ASSISTANCE

§17-835-1	Goals
§17-835-2	Definitions
§17-835-3	Scope of program
§17-835-4	Geographic area of service
§17-835-5	Confidentiality
§17-835-6	Appeals and hearings
§17-835-7	Reporting changes
§17-835-8	Overpayments and recoupment
§17-835-9	Application for permanency assistance
§17-835-10	Eligibility requirements
§17-835-11	Family responsibility for payment
§17-835-12	Income of the child
§17-835-13	Application disposition
§17-835-14	Permanency assistance agreement
§17-835-15	Determination of permanency assistance
§17-835-16	Method of payment
§17-835-17	Initiation of permanency assistance
§17-835-18	Duration of permanency assistance
§17-835-19	Recertification of permanency assistance agreement
§17-835-20	Notice for recertification
§17-835-21	Permanency assistance outside the state
§17-835-22	Special conditions for permanency assistance for legal guardianship or permanent custody awarded through July 31, 1990
§17-835-23	Termination of permanency assistance

§17-835-1 Goals. Permanency assistance provided under this chapter shall be directed at meeting the following goals:

- (1) Securing placement with a specified permanent custodian or legal guardian for the child who is unable or unwilling to be adopted;
- (2) Achieving and maintaining self-sufficiency of children, including the reduction or

- prevention of dependency;
- (3) Preventing or reducing inappropriate institutional care of children. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-2 Definitions. As used in this chapter:

"Caretaker" means any adult who provides care to or oversees the care of children.

"Child" means any person under eighteen years of age who is residing with legal guardians or permanent custodians as a result of a court order issued at the time the department had placement responsibility; or, upon attaining age eighteen years while residing with his or her legal guardians or permanent custodians needs continued care to complete high school education or equivalent within six months or within the following school year with a goal towards independent living; or, is twenty-one years old or younger and attending an accredited institution of higher education in the State on a full-time basis.

"Department" means the department of human services.

"Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment, including but not limited to college, universities, and vocational or technical schools.

"Legal guardian" means any adult who has assumed legal guardianship of a child as the result of a judicial determination under HRS chapter 560, made at the time the department had placement responsibility of the child.

"Permanency assistance" means the provision of a permanency assistance subsidy, medical benefits, and/or other special circumstance requirements to facilitate the permanent placement of children under the department's placement responsibility.

"Permanency assistance agreement" means a written agreement between the legal guardians or permanent custodians and the department specifying conditions for the provision of permanency assistance.

"Permanency assistance subsidy" means the provision of a grant or monetary assistance for the maintenance needs of children previously under the department's placement responsibility in order to facilitate their permanent placement with legal

guardians or permanent custodians.

"Permanent custodian" means any adult who has assumed permanent custody of a child as the result of a judicial determination under HRS chapter 587, made at the time the department had placement responsibility of the child.

"Placement responsibility" means the authority of the department to determine the placement and care of a child for whom the department has foster custody/legal custody or permanent custody.

"Special circumstance requirements" means the cost of clothing and other necessary expenses as specified in section 17-835-3. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-3 Scope of program. Permanency assistance shall include:

- (1) A qualified permanency assistance subsidy or monetary grant to meet the child's basic maintenance needs at the established foster board rate specified in chapter 17-828;
- (2) Special circumstance requirements as follows when the need is established by the child's department worker:
 - (A) Clothing:
 - (i) Necessary for maintenance; and
 - (ii) Needed for special circumstances or special events;
 - (B) The actual cost of necessary school bus fare or private automobile mileage at established state mileage allowance for the months school is in session for a child who is attending school where free school transportation is not available;
 - (C) The actual cost of local bus fare, private automobile mileage at established state mileage allowance, or taxi fare when other resources are not available to obtain medical care including physical examinations, psychiatric and psychological therapy;
 - (D) Minimum rates for transportation and other costs to allow the child to accompany his or her legal guardians/permanent custodians to their new state of residence; or
 - (E) Special services costs for children

meeting the eligibility requirements of chapter 17-917, Hawaii Administrative Rules; and

- (3) Qualified medical care benefits under the title XIX or State's medicaid program for children certified for permanency assistance when other medical care resources are not available. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-4 Geographic area of service. Permanency assistance shall be available to eligible children meeting the requirements of section 17-835-10. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-5 Confidentiality. The provisions of chapter 17-601, Hawaii Administrative Rules, shall apply to families and children served under this chapter. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §§346-14; 346-10)

§17-835-6 Appeals and hearings. The provisions of chapter 17-602, Hawaii Administrative Rules, shall apply to families and children served under this chapter. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §§346-12, 346-14)

§17-835-7 Reporting changes. (a) Legal guardians/permanent custodians shall be responsible to report to the department in writing within fifteen days of occurrence:

- (1) If they are no longer supporting the child or the child is no longer residing with them;
- (2) If the child is receiving or is eligible to receive income from a source other than the Department;
- (3) If they are no longer the legal guardians or permanent custodians of the child;
- (4) Any changes of address including:
 - (A) Place of residence; and
 - (B) Mailing address;
- (5) Other circumstances which may affect eligibility for continued permanency

assistance.

(b) Failure to report information as specified in section 17-835-7(a), which may affect eligibility for permanency assistance shall be investigated by the department as suspected fraud.

(c) In situations where fraud is suspected, the provisions of chapter 17-604, Hawaii Administrative Rules, shall be applicable. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-44)

§17-835-8 Overpayments and recoupment. (a) An overpayment shall occur when legal guardians or permanent custodians receive permanency assistance to which they are not entitled.

(b) Overpayments shall be collected from the legal guardians or permanent custodians in the following manner:

- (1) As a refund from the currently available permanency assistance payment at a rate of ten per cent of the monthly permanency assistance payment for legal guardians or permanent custodians who continue to be eligible to receive permanency assistance;
- (2) Recovered for the department by the investigations office for individuals who are no longer eligible to receive permanency assistance.

(c) Overpayments that meet the definition of fraud as defined in chapter 17-604, Hawaii Administrative Rules, shall be referred to the investigations office. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-44)

§17-835-9 Application for permanency assistance.

(a) An application for permanency assistance may be submitted by the prospective legal guardians or permanent custodians on behalf of a child under the department's placement responsibility who is receiving case management services under chapters 17-806, 17-913 or 17-920.1.

(b) The initial request (application) for permanency assistance cannot be made after guardianship or permanent custody has been awarded except when the application for permanency assistance was made on or prior to September 15, 1990 for cases specified in section 17-835-22.

(c) The application shall be in writing on a form prescribed by the department. The form shall be dated and signed under penalty of perjury and shall include all information needed by the department to establish eligibility for permanency assistance. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-10 Eligibility requirements. (a) In order to be eligible for permanency assistance, the following conditions shall be met:

- (1) The child shall have been determined by the department social worker to be unable to be reunified with his or her parent or parents or to be placed for adoption;
- (2) The caretakers shall have assumed sole legal guardianship or permanent custody of the child as the result of a judicial determination made at the time the department had placement responsibility of the child and provided case management services under chapters 17-806, 17-913 or 17-920.1;
- (3) The child shall not be eligible for room and board payments under chapters 17-828, 17-923 or 17-943;
- (4) The department shall be relieved of placement responsibility; and
- (5) The child's income shall not exceed the maximum permanency assistance subsidy and special circumstance requirements allowable.

(b) An eligible child shall continue to be eligible for permanency assistance subsidy after reaching the age of majority and the permanency assistance subsidy for that person shall continue to be paid to the person's legal guardians or permanent custodians, provided that:

- (1) The person is twenty-one years old or younger; and
- (2) The person is attending an accredited institution of higher education in the State on a full-time basis.

The permanency assistance subsidy may be applied to costs incurred in undertaking full-time studies at an institution of higher education.

(c) The prospective legal guardians/permanent custodians or legal guardians/permanent custodians shall enter into a permanency assistance agreement with

the department. [Eff 8/25/90] (Auth: HRS §346-14)
 (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-11 Family responsibility for payment.

(a) The child's legally responsible parents shall be required to contribute to the cost of their child's placement with the legal guardians or permanent custodians in accordance with the requirements of section 17-828-7.

(b) Contributions from the legally responsible parent shall be made to the department as refund for the cost of the permanency assistance. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-37.1)

§17-835-12 Income of the child. The resources of the child shall be considered when determining the amount of permanency assistance payments. The income to be considered shall include, but is not limited to the following:

- (1) Unearned income such as SSI benefits, retirement survivor's and disability insurance (RSDI) benefit payments, trust fund accounts, and military personnel's or veterans' dependency benefits; and
- (2) Earned net income from full or part-time employment for children meeting the eligibility requirements of section 17-835-10 shall be applied as follows:
 - (A) Thirty percent (30%) from full-time employment of which twenty percent (20%) shall be applied to room and board and ten percent (10%) to meet clothing needs.
 - (B) Fifteen percent (15%) from the net monthly income of \$100 or more from part-time employment shall be applied to room and board.

The child shall make payment directly to the legal guardians or permanent custodians.
 [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §§346-14; 346-37.1)

§17-835-13 Application disposition. (a) The disposition of the application for permanency assistance shall be made within thirty calendar days

from the date of receipt of the application.

(b) The department shall notify applicants about their eligibility for permanency assistance within fifteen calendar days after the department makes a decision.

(c) The applicant shall be sent a written notice that contains a statement of the action taken, the reasons for the action, the specific rules supporting the action, and of the right to appeal the department's decision through established appeals and hearing procedures. [Eff 8/25/90] (Auth: HRS §§346-12, 346-14) (Imp: HRS §346-14)

§17-835-14 Permanency assistance agreement. (a) A written permanency assistance agreement between the department and the prospective legal guardians/permanent custodians or legal guardians/permanent custodians shall be in effect for any child for whom permanency assistance payments are made.

(b) The agreement shall be signed prior to or at the time of the final decree awarding legal guardianship or permanent custody to the caretakers except when the agreement was signed on or prior to September 15, 1990 for cases specified in section 17-835-22.

(c) A copy of the signed agreement shall be given to each party.

(d) The terms of the agreement shall remain in effect regardless of the state in which the legal guardians or permanent custodians live at any time. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-15 Determination of permanency assistance. (a) The amount of the permanency assistance subsidy shall not exceed the department foster family board rate specified in chapter 17-828.

(b) The amount of other special circumstance requirements shall be provided in accordance with section 17-835-3.

(c) The earned/unearned income of the child or children shall be subtracted from what would be the permanency assistance amount.

(d) The amount of payment may be based on the receiving state's board rate when a child moves out of state with legal guardians or permanent custodians.

- (e) Exceptions to the computed permanency placement subsidy:
- (1) The permanency placement subsidy grant shall not be less than \$5 per month.
 - (2) A lesser amount than the computed maintenance payment can be agreed upon by the department and the legal guardians/permanent custodians if the legal guardians/permanent custodians indicate a lesser amount is adequate for the child's care. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-16 Method of payment. (a) The department or its representative shall authorize permanency assistance when the child and family meet the eligibility requirements specified in section 17-835-10.

(b) Payments for permanency assistance subsidy shall be made on a monthly basis following the month of care and issued only to the legal guardians or permanent custodians.

(c) Payments for special circumstance requirements shall be issued when the child meets the eligibility requirements of section 17-917-3. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-17 Initiation of permanency assistance. Permanency assistance shall be initiated not earlier than:

- (1) The date of the court order awarding legal guardianship or permanent custody to the child's caretaker; and
- (2) The date of the signing of the permanency assistance agreement except when the agreement for permanency assistance was made on or prior to September 15, 1990 for cases specified in section 17-835-22. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-835-18 Duration of permanency assistance. Permanency assistance may continue only until:

- (1) The child reaches age eighteen years;
- (2) Upon attaining age eighteen, the child residing with legal guardians or permanent custodians is able to complete high school education or equivalent within six months upon attaining age eighteen or within the following school year; or
- (3) The child reaches age twenty-two if the child had been attending an accredited institution of higher education in the State on a full-time basis. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-19 Recertification of permanency assistance agreement. There shall be annual recertification of the permanency assistance agreement in order to determine the child's and family's continued eligibility for the permanency assistance. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-835-20 Notice for recertification. (a) The department shall mail a written notice of the need for recertification to the legal guardians or permanent custodians at least sixty days prior to the anniversary date of the permanency assistance agreement.

(b) A written second notice to the legal guardians or permanent custodians shall be mailed at least thirty days prior to the anniversary date of the permanency assistance agreement specifying that failure to recertify the child's and family's continued eligibility for the permanency assistance shall result in termination of the permanency assistance. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-835-21 Permanency assistance outside the State. (a) Permanency assistance payments shall continue if the legal guardians or permanent custodians and child move out of the State while the permanency assistance agreement is in effect and the child continues to meet the eligibility requirements of §17-835-10.

(b) The terms of the agreement shall remain in effect regardless of the state in which the legal guardians or permanent custodians live at any given

time.

(c) The State shall continue to retain responsibility for medical care under title XIX or the State's medicaid program. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14; SLH 1989, Act 316)

§17-835-22 Special conditions for permanency assistance for legal guardianship or permanent custody awarded through July 31, 1990. The application and the permanency assistance agreement shall be made and entered into no later than September 15, 1990 for:

- (1) Cases in which legal guardianship or permanent custody was awarded the child's caretaker on or after July 1, 1989 through July 31, 1990; or
- (2) Cases in which legal guardianship or permanent custody was awarded the child's caretaker prior to July 1, 1989 and the department continues to provide room and board payments under chapter 17-828. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-835-23 Termination of permanency assistance. The department shall terminate payment to the legal guardians or permanent custodians under any one of the following circumstances:

- (1) The child has reached the age of majority;
- (2) The child is no longer receiving any support from the legal guardians or permanent custodians;
- (3) The legal guardians or permanent custodians are no longer legally responsible for the support of the child;
- (4) The child's need for permanency assistance no longer exists;
- (5) The legal guardians or permanent custodians are able to assume full financial responsibility and no longer wish to continue the permanency assistance;
- (6) The child goes into an adoptive home;
- (7) The child has achieved independent living and is self-supporting;
- (8) The child enters a state institution for mental retardation or mental illness;
- (9) The child is placed in a correctional

- facility;
- (10) The child is placed in an extended medical facility;
 - (11) The child no longer meets the eligibility requirements of section 17-835-10; or
 - (12) The permanency assistance agreement is not current and valid. [Eff 8/25/90] (Auth: HRS §346-14) (Imp: HRS §346-14)