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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 912

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Historical Note: This chapter is based substantially upon Rule 23 **§§5000-5000.1** "Rules and Regulations Governing Service Costs," and Rule 11 **§§4010-4031 "Rules and Regulations Governing Social Service Application and Eligibility Requirements,"** Public Welfare Division, Department of Social Services and Housing. Rule 23 [Eff 1/25/73; am 1/6/75; am 4/26/76; R 7/19/82] Rule 11 [Eff as Rule 39 **§§1020-1030.4** 1/6/75; am 4/26/76; am 6/14/76; am 1/14/77; am 8/15/77;

am 10/10/77; am 12/5/77; am 1/9/78; ren to Rule 11
10/31/78; am 11/20/78; am 12/8/78; am 5/25/79; am
7/9/79; am 2/22/80; R 7/19/82]

§17-912-1 Purpose. (a) The purpose of this chapter shall be to establish the general conditions for the provision and receipt of social services identified in chapters 17-913 to 17-927.

(b) Specific social service program requirements shall be identified in chapters 17-913 to 17-927. [Eff 7/19/82; am and comp JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-2 Goals of social services. Social services provided under the provisions of title XX shall be directed at helping-eligible persons:

- (1) Achieve or maintain economic self-support to prevent, reduce, or eliminate dependency on public assistance;
- (2) Achieve or maintain self-sufficiency, including reduction or prevention of dependency;
- (3) Prevent or remedy neglect, abuse, or exploitation of children unable to protect their own interests; or preserve, rehabilitate, or reunite families;
- (4) Prevent or reduce inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or
- (5) Secure admission to institutional care when other forms of care are not appropriate.

[Eff 7/19/82; am and comp JUN 29 1992]
(Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397)

§17-912-3 Definitions. For the purpose of chapters 17-912 to 17-927:

"Application" means a specific **request** made by an individual for social services offered under the title XX program for the individual or on behalf of another person.

"Emancipated minor" means a minor who is at least sixteen years old, who earns an income which is more

than sufficient to meet the minor's basic living requirements, according to departmental standards, and meets the minor's share of expenses in the home, and is not claimed as a tax dependent. In addition, the minor shall have sufficient ability to plan the use of earnings, and shall have an agreement with parents or caretakers to work and use earnings as the minor wishes.

"Family" means one or more adults and children, if any, related by blood, marriage, or adoption, who reside in the same household. Related adults other than spouses or unrelated adults residing together shall each be considered a separate family unit. A child living with non-legally responsible relatives, an emancipated minor, or a child living under the care of unrelated persons may be considered one-person families when the child is the primary recipient of social services.

"Primary recipient" means an eligible individual for whom a specific title XX goal is established and who is provided specified social services in order to achieve that goal.

"Purchase of service (POS) **provider**" means an agency or organization which offers social services on behalf of the department under the terms of a valid written contract.

"Relative" means father, mother, brother, sister, stepfather, stepmother, stepbrother, stepsister, half brother, half sister, uncle, aunt; uncle half blood, aunt half blood, grandfather, grandmother, great grandfather, great grandmother, first cousin, niece, nephew, including the spouse of any of the above, even though the marriage ended in divorce or death.

"Title XX" means title XX of the Social Security Act (42 U.S.C. §1397). [Eff 7/19/82; am and comp JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C §1397a)

§17-912-4 Range of social services. (a) The department shall provide a range of services to **eligible individuals** in accordance with the State's current social services block grant report of intended use and with provisions of the title XX social services programs specified in chapters 17-913 to 17-927.

(b) The **provisions of** chapter 17-945 shall apply to families and children receiving services under this

chapter. [Eff 7/19/82; am 3/21/88; am and comp
 JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-14;
 42 U.S.C. §§627; 1397c)

§17-912-5 Methods of service provision. (a)
 Services shall be provided to eligible individuals
 directly by department staff or by purchase of service
 (POS) providers. Services provided by POS providers
 shall be limited by the terms, 'scope, and funding
 specified in the POS contracts.

(b) Specific services such as chore, day care,
 and family care services may also be provided by
 individuals or agencies through independent
 arrangements made by the recipient. In these
 instances, the department shall reimburse the eligible
 recipient for the cost incurred in securing the
 services according to the department's payment rates
 for the service. [Eff 7/19/82; comp JUN 29 1992]
 (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C.
 §1397c)

§§17-912-6 to 17-912-8 Reserved

SUBCHAPTER1

APPLICATION FOR SERVICES

§17-912-9 Declaration of need for services. (a)
 All persons wishing to apply for available social
 services shall be given the opportunity to do so.

(b) 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 necessary to
 establish eligibility for the services.

(1) The application form shall be signed by one
 of the following persons:

- (A) The applicant;
- (B) A representative authorized by the
 applicant; or
- (C) When the applicant is incompetent or
 incapacitated, by someone acting
 responsibly for the individual,
 including department staff.

(2) Submission of a signed application form shall formalize the application except in situations of protective services for children. In lieu of a signed application form in protective service situations, the department shall document the date and nature of the protective service referral.

(c) Except for services provided without regard to income, the date of application shall be the date the signed application for social services form is received by the department.

(d) For services provided without regard to income, the date of application shall be the date the complaint or request for services is received orally or in writing.

(e) Acceptance of social services under title XX shall not be a prerequisite for receipt of any other services or aid such as aid to families with dependent children, medicaid, or food stamps.

(f) Individuals shall have the right to decide the need for social services, **except** for those individuals:

- (1) Receiving services which are in accord with a court order; and
- (2) In situations of actual or suspected abuse or neglect. [Eff 7/19/82; am and comp JUN 29 1997] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-10 Applicant as primary source of information. (a) The applicant shall be the primary source of information in determining eligibility and need for initial and continuing receipt of services.

(b) The applicant or **the applicant's** authorized **representative** shall provide the department with the necessary information in writing on the department's prescribed application form to:

- (1) Establish eligibility for social services; and
- (2) Identify the nature or type of services needed from the department.

(c) If the individual is a minor **or** is legally adjudicated an incapacitated person, the following conditions shall be met:

- (1) The application for services shall be completed by the parent of the minor, or the legal guardian;
- (2) The minor or incapacitated person shall be involved in the application process and planning for services to the extent of the minor's or incapacitated person's **capabilities**; and
- (3) Minors applying without the knowledge of parents shall be assisted in understanding the **need** for involvement of parents or guardians. [Eff 7/19/82; comp JUN 29 1991] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-11 Handline applications. (a) When the application is received, it shall be assigned to a worker for a determination of:

- (1) The applicant's eligibility for social services according to departmental eligibility requirements;
- (2) The nature of the problem as stated by the applicant;
- (3) Whether the identified problem may be appropriately addressed by services offered by the department;
- (4) Which of the available services may best meet the applicant's problem;
- (5) The service goals of the applicant; and
- (6) The need to inform the applicant of **and** refer the applicant to other community resources if appropriate, in order to:
 - (A) Provide freedom of choice for the applicant; and
 - (B) Help the applicant secure services not available from the department.

(b) The application shall not be accepted if the service being requested is available only through a **purchase** of service (POS) provider and the service will not be available within thirty days from the date of application.

(c) When the application is not accepted, the applicant shall be assisted to:

- (1) Consider other community or department resources; or

- (2) Arrange for placement of the applicant's name on the service provider's waiting list until the individual may be accommodated, at which time an application may be submitted by the individual requesting the POS service. [Eff 7/19/82; am 2/9/89; am and **comp JUN 29 1997**] (Auth: HRS **§346-14**) (Imp: HRS **§346-14**; 42 U.S.C. **§1397c**)

§17-912-12 Disposition of application. The department shall dispose of applications by taking one of the **following** actions:

- (1) Applicants shall be determined eligible for social services when:
- (A) All required **forms** and verifications submitted to the department:
 - (i) Are received within thirty days of the date of application; and
 - (ii) Contain all information necessary for determining eligibility; and
 - (B) The applicant meets all eligibility requirements specified by the department for the services for which the individual applied;
- (2) Applicants shall be determined ineligible for social services when:
- (A) It is clearly established and recorded that the applicant does not meet the eligibility requirements specified either under subchapter 2, general eligibility requirements, of this chapter, or the eligibility requirements of the particular services applied for; or
 - (B) The applicant leaves the State or the applicant's whereabouts are unknown; or
 - (C) Verification necessary to determine eligibility is submitted after thirty days from the date of application. A new application may be submitted; or
 - (D) A request is made for services which are not included in the scope of the department's services; or
- (3) The department shall discontinue applications which are withdrawn because the applicant decides not to use the services of the

department. [Eff 7/19/82; am and comp
 JUN 29 1992] (Auth: HRS §346-14) (Imp:
 HRS §346-14; 42 U.S.C. §1397c)

§17-912-13 Time limits for application disposition. (a) The disposition of all applications for social services provided by the department shall be made within thirty calendar days from the date of application.

(b) For applicants determined eligible, services shall be initiated or arranged within:

- (1) Fifteen calendar days after the decision on eligibility has been made; or
- (2) Thirty calendar days after date of the application. [Eff 7/19/82; am 2/9/89; comp
 JUN 29 1992] (Auth: HRS §346-14) (Imp:
 HRS §346-14; 42 U.S.C. §1397c)

§17-912-14 Notice to the applicant of application disposition. (a) The department shall notify applicants about the applicants' eligibility for service within fifteen calendar days after the department makes a decision.

(b) 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 fair hearing procedures. [Eff 7/19/82; comp JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-15 Presumptive eligibility. (a) Any applicant not determined eligible or ineligible by the thirtieth day from the date of application shall be determined presumptively eligible for the social service for which the individual applied effective the thirty-first day from the date of application.

(b) A determination of presumptive eligibility shall not constitute a final disposition. The application shall be processed and disposition of the application shall be made as soon as possible. The applicant shall remain presumptively eligible until the application is either approved or denied. The applicant shall be informed of the decision.

(c) On the thirty-first day from the date of application, the department shall send a written notice of presumptive eligibility to all applicants who have not been notified of approval or denial.

(d) The cost of services for which the application was made shall be authorized for services received beginning the thirty-first day until presumptive eligibility is no longer effective when:

- (1) The applicant submits to the department a bill or receipt for payment within thirty days of the date indicated on the bill or receipt; and
- (2) The amount paid does not exceed the department's rate of payment for the kind of service received.

(e) The following conditions shall apply in order to terminate presumptive eligibility when the applicant is determined eligible:

- (1) Presumptive eligibility shall end on the day the disposition is made. The applicant shall be notified of full eligibility; and
- (2) The cost of services for which the application was made **shall be authorized from** the date of application according to the department's rate of payment, **if the client** submits a bill **or** receipt for services received during **that time**.

(f) The following conditions shall apply in order to terminate presumptive eligibility when the applicant is determined ineligible:

- (1) On the day the department determines the applicant ineligible, the department shall mail the applicant notice to this effect;
- (2) Presumptive eligibility shall terminate three days **from the date the notice** is mailed;
- (3) The cost of services for which the individual applied and received during presumptive eligibility shall be authorized if the applicant submits a bill or receipt for payment within thirty days of the date indicated on the bill or receipt. Payment shall be made according to the rate of payment for the kind of service rendered;
- (4) If a fair hearing is requested, no payments **shall be** made for service received after presumptive eligibility terminated and while the fair hearing request is pending;

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- (5) If a fair hearing decision is in the applicant's favor, the applicant shall be determined eligible from the date of application. Costs for services received from the date of application shall be paid at **the department's** rate of payment for that particular service when:
- (A) The services are the kind of services for which the individual **applied; and**
 - (B) The applicant submits a bill or receipt to the department; and
- (6) If a fair hearing decision is adverse to the applicant, the applicant shall remain ineligible and responsible for costs incurred prior to as well as after the period of presumptive eligibility. [Eff 7/19/82; am and **comp 6/29/92**] (**Auth: HRS §346-14**) (Imp: **HRS §346-14; 42 U.S.C. §1397c**)

§17-912-16 Right to a fair hearing. Every applicant or recipient shall be informed in writing at the time a decision is made regarding a social service application or request for additional services and at the **time of** any department action affecting the service the recipient is receiving:

- (1) Of the applicant's or recipient's right to a fair hearing;
- (2) Of the method for obtaining a hearing as specified in chapter 17-602.1; and
- (3) That the applicant or recipient may be represented by legal counsel, relatives, a friend, any other spokesperson the applicant or recipient chooses, or that the applicant or recipient may be self-represented. [Eff 7/19/82; am and **comp 6/29/92; am 8/05/93**] (**Auth: HRS §346-14**) (Imp: **HRS §346-12; 42 U.S.C. §1397c**)

§§17-912-17 to 17-912-21 Reserved

SUBCHAPTER 2

GENERAL ELIGIBILITY REQUIREMENTS

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§17-912-22

§17-912-22 Eligibility requirements -for title XX social services. In order to be determined eligible for specific social services under title XX, individuals and families shall meet the following requirements:

- (1) Program eligibility requirements as specified in chapters 17-913 to 17-945; and
- (2) Income eligibility requirements as follows:
 - (A) Income maintenance status for the following individuals or families:
 - (i) Recipients of AFDC or AFDC-UP benefits and any other individual included in the payment; or
 - (ii) Recipients of supplemental security income (**SSI**); or
 - (B) Income eligible status for those individuals and families whose total gross monthly income is equal to or less than the departmental income standards for social services. This category shall include children living in foster care, children living with non-legally responsible relatives, and emancipated minors who may be considered one person families and whose eligibility is to be determined as an individual without determination of parental eligibility. The following departmental monthly income standard for title XX social services shall be applied to determine eligibility for income eligible status:

<u>Family size</u>	<u>Monthly Gross Income</u>
1	\$ 572
2	768
3	964
4	1,160
5	1,355
6	1,551
7	1,747
8	1,943
9	2,139
10	2,335
11	2,530
12	2,726
13	2,922

- | | |
|----|-------|
| 14 | 3,118 |
| 15 | 3,314 |
- (c) Without regard to income status for those individuals and families who require protective services for:
- (i) Children under age eighteen; or
 - (ii) Adults needing services to prevent or remedy abuse or neglect of children; or
- (3) Eligibility requirements as specified in chapter 17-944.1. [Eff 7/19/82; am 11/12/82; am 9/30/85; am 11/3/89; am 10/10/91; am and comp JUN 23 1992] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-23 Establishment and implementation of the service plan. (a) The department shall establish with the client a service plan which shall be recorded and shall include:

- (1) Identification of the problem as presented by the client;
- (2) Goals that shall be achieved:
 - (A) Self-support;
 - (B) Self-sufficiency;
 - (C) Protection;
 - (D) Prevention or reduction of premature or inappropriate institutional care; and
 - (E) Institutional care; and
- (3) Barriers that stand in the way of achieving goals.

(b) The service plan form need not be fully completed at the point of application or before the initial service cost or POS payment is authorized. The worker shall assess the problem and define the goals to be **achieved** prior to determining approval of application for service. The remainder of the service plan form shall be completed as soon as possible thereafter.

(c) The social worker and client shall carry out the mutually identified tasks to remove barriers for goal achievement and the social worker shall assist the client where appropriate to carry out the tasks.

(d) Implementation of the service **plan shall** be carried out in accordance with rules specified in chapters 17-912 to 17-927. [Eff 7/19/82; am and comp

JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS
 §346-14; 42 U.S.C. §1397c)

§17-912-24 Case plan. For families with children at risk of placement or in placement in substitute care, the case plan shall meet the requirements of section 17-945-11. [Eff 3/21/89; comp JUN 29 1992]
 (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §627)

§§17-912-25 and 17-912-26 Reserved

SUBCHAPTER 3

TREATMENT OF INCOME

§17-912-27 Income information. (a) When eligibility is based on the income status of the applicant or recipient, all income specified in section 17-912-28 which is available to the applicant or recipient within a given month shall be taken into account in:

- (1) Determining the applicant's eligibility for **social services; or**
- (2) Redetermining the recipient's continuing eligibility for social services.
- (b) Eligibility determination based on income status shall be supported by documentation of current monthly gross income unless otherwise specified.
- (c) Refusal to provide necessary information on sources of income or to permit departmental verification of incomplete or inconsistent information concerning income shall disqualify the applicant **and** the applicant's legal dependents for services.
- (d) Total gross monthly income received by members of the family unit, including a stepparent's income, shall be used to determine eligibility. The incomes of the following individuals shall be disregarded in determining income eligibility for **social services:**
 - (1) Emancipated minors, as defined in section 17-912-3, not requiring title XX social services; and
 - (2) Minors under fourteen years of age.

(e) A minor who requires services as a primary recipient and who receives AFDC or SSI benefits shall be determined income eligible by virtue of the minor's AFDC or SSI status.

(f) Members of a family unit shall meet income maintenance status requirements when all members in the family unit receive AFDC or SSI benefits. [Eff 7/19/82; am and comp JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-28 Income to be considered in eligibility determination (a) Monthly **gross** income shall be used to determine categorical eligibility based on income status.

(b) Monthly gross income means monthly sums of income received from the following sources:

- (1) Gross income before deductions are made for items such as, but not limited to, taxes, union dues, bonds, and pensions from:
 - (A) Wages;
 - (B) Salary;
 - (C) Armed forces pay;
 - (D) Commissions;
 - (E) Tips;
 - (F) Piece-rate payments; and
 - (G) Cash bonuses earned;
- (2) Social security pensions and survivors' benefits prior to deductions for medical insurance, including:
 - (A) Railroad retirement insurance checks from the U. S. government; and
 - (B) Permanent disability insurance payments made by the Social Security Administration;
- (3) Unemployment insurance benefits such as:
 - (A) Compensation received from government unemployment insurance agencies or private insurance companies during periods of unemployment; and
 - (B) Any strike benefits received from union funds;
- (4) Worker's compensation benefits.
 - (A) Worker's compensation benefits include compensation received from private or public insurance companies for injuries incurred at work.

- (B) The cost of the insurance shall have been paid by the employer and not by the employee;
- (5) Pensions and annuities, including pensions or retirement benefits paid to a retired person or the person's survivors by a former employer or by a union, either directly **or** by an insurance company;
- (6) Veteran's pensions which include:
 - (A) Money paid periodically by the Veteran's Administration to:
 - (i) Survivors of deceased veterans; or
 - (ii) Disabled members of the armed forces;
 - (B) **Subsistence** allowances paid to veterans for:
 - (i) Education; or
 - (ii) On-the-job training; and
 - (C) **"Refunds"** paid to former members of the armed forces as GI insurance premiums;
- (7) An allotment of a member of the armed forces;
- (8) Alimony;
- (9) Child support;
- (10) Public assistance payments from another state;
- (11) Hawaii welfare check;
- (12) Dividends from stockholdings or memberships in associations;
- (13) Periodic interest on savings or bonds;
- (14) Receipts from estates or trust funds;
- (15) Net income from:
 - (A) Rental of a house;
 - (B) Rental of a store;
 - (C) Rental of other property to others; and
 - (D) Receipts from boarders or lodgers;
- (16) Net royalties; and
- (17) Net income received from self-employment.
 - (A) **To** be considered self-employed, the individual shall:
 - (i) Not be discharged from the job by another person;
 - (ii) Report income to the Internal Revenue Service and the State as a self-employed person;
 - (iii) Meet social security requirements as a self-employed person and pay

- employer's and employee's share of social security taxes;
- (iv) Not be considered an employee of an agency or organization; and
 - (v) Be licensed by the State to operate a business.
- (B) Net income received from non-farm **self-employment** means the gross receipts minus expenses for an individual's own business, professional enterprise, or **partnerships**.
- (i) Gross-receipts shall include the value of all **goods** sold and services rendered.
 - (ii) Expenses shall include the costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes, and other similar costs.
 - (iii) The value of salable merchandise consumed by the proprietors of retail stores shall not be included as part of net income.
- (C) Net income received from farm **self-employment** means the gross receipts minus operating expenses from the operation of a farm by a person on the person's own account, as an owner, renter, or sharecropper.
- (i) Gross receipts shall include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, **and incidental** receipts from the sale of wood, sand, gravel, and similar items.
 - (ii) Operating expenses shall include the cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income-taxes), and other similar **expenses**.
 - (iii) The value of fuel, foods, or other farm products used for family

living shall not be included as part of net income. [Eff 7/19/82; comp JUN 29 1997] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

§17-912-29 Exempted monthly gross income. The following monthly gross income or **resources** shall be excluded from consideration as resources in determining income eligibility for social services:

- (1) Money received from **the sale** of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self-employment income;
- (2) Withdrawals of bank deposits;
- (3) Money borrowed;
- (4) Tax refunds;
- (5) Gifts, including in-kind gifts such as free room and board;
- (6) Lump sum inheritances or insurance payments;
- (7) Capital gains;
- (8) The value-of coupon allotment under the Food Stamp Act of 1977, as amended (7 U.S.C. **§§2011-2027**), in excess of the amount paid for the coupons;
- (9) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. **§§4601-4655**);
- (10) Earnings of a child under fourteen years. No inquiry shall be made;
- (11) Loans and grants, such as scholarships obtained and used under conditions that prohibit use for current living expenses;
- (12) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
- (13) Home produce utilized for house consumption;
- (14) Income to volunteers derived from the volunteers' participation in the following programs authorized by the Domestic Volunteer Service Act of 1973 (42 U.S.C. **§§5011, 4951-4958**):

- (A) Foster grandparent program;
 - (B) Senior companion program; and
 - (C) Volunteers in service to America (VISTA) program;
- (15) Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Courts of Claims;
- (16) Payments made pursuant to the Alaska Native Claims Settlement Act to the extent the payments are exempt from taxation under section 21(a) of the Act (43 U.S.C. **§1620 (1971)**);
- (17) The value of USDA donated foods;
- (18) The value of supplemental food assistance under the Child Nutrition Act of 1966 (42 U.S.C. **§§1771-1789**) and the special food service program for children under the National School Lunch Act, as amended (42 U.S.C. **§§1751-1769**); and
- (19) Other payments made in accordance with state and federal laws that preclude the payments from being counted as income or assets. **[Eff 7/19/82; am and comp JUN 29 1992]** (Auth: HRS **§346-14**) (Imp: HRS **§346-14**; 42 U.S.C. **§1397c**)

§17-912-30 Method of budaetinu income. (a)

Gross monthly income shall be considered as a resource in one of the following manners:

- (1) **Lump sum**, if received only once;
- (2) Current monthly income, if received regularly and is constant in amount; or
- (3) Average income of the past two months if monthly income is irregular and there is reasonable assurance that the income will be the same in the next two months.

(b) Monthly income shall be computed according to the following methods:

- (1) Count the total monthly income received if **income is received once a month**;
- (2) Count the total of two pay checks if income is received twice a month on a regular basis;
- (3) Multiply one week's gross income by **4-1/3** weeks if income is received once a week on a regular basis;

- (4) Multiply one two-week period income by **2-1/6** weeks if income is received every two weeks;
or
 (5) **Count** average monthly income of past two months if income is irregular. [**Eff 7/19/82; comp JUN 29 1992**] (Auth: HRS **§346-14**)
 (Imp: HRS **§346-14**; 42 U.S.C. **§1397c**)

§§17-912-31 to 17-912-33 Reserved

SUBCHAPTER 4

AUTHORIZATION FOR SERVICE

§17-912-34 Service authorization. (a) The department shall provide services only as part of a social service plan for individuals and families meeting the eligibility requirements for specific services.

(b) The social service plan shall include only those services which are described in chapters 17-913 to 17-927, as being available through the department.

(c) The services shall be authorized by the department social worker and shall be for a predetermined period during which services are necessary. Services authorized shall not cover a period prior to the actual date on which the individual or family was determined eligible for the service.

(d) No payment shall be made for services which are not included in the service plan and which are provided the recipient without prior written authorization of the department.

(e) Payment for services shall be provided:

- (1) Through cash payment, directly to the recipient after service is received;
- (2) By purchase order payment made on behalf of the recipient directly to a vendor with a written purchase agreement with the department; or

- (3) By purchase of service payment made on behalf of the recipient directly to a POS provider.

(f) When cash payments are made to the-client who is receiving services in the client's own home, payment shall be reimbursed at the current federal minimum hourly wage rate, unless the state minimum is higher,

in which case the state rate shall be used. In addition, the department shall:

- (1) Provide employer payment for state unemployment taxes (**SUTA**), federal unemployment taxes (**FUTA**), and Social Security taxes (FICA), which shall be paid directly by the department, in the recipient's behalf, to the appropriate tax agencies; and
- (2) Deduct mandatory employee taxes from the monthly payment to cover federal withholding, state withholding and Social Security taxes.
 - (A) The amount of federal and state taxes withheld shall be based on information submitted to the department regarding provider's marital status, number of provider dependents, and relationship between client and provider,
 - (B) The monthly payment the client receives shall reflect the required number of hours of care multiplied by the rate of state or federal minimum wage, whichever is higher, less the mandatory employee taxes withheld as stipulated in this paragraph. [Eff 7/19/82; am 1/13/84; am and comp 6/29/92] (Auth: HRS §§346-14, 346-63) (Imp: HRS §§346-14, 346-63; 42 U.S.C. §1397c)

§17-912-35 REPEALED. [R 1/13/84]

§§17-912-36 to 17-912-38 Reserved

SUBCHAPTER 5

OTHER PROVISIONS

517-912-39 **Request for additional services.** (a) There shall be written documentation of a recipient's request for services in addition to the services the recipient is already receiving. The documentation may be:

- (1) A written request completed by the recipient; or

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(2) A recording of the request by departmental staff.

(b) Disposition of requests for additional services shall be made in the same manner as an application and the provisions of section 17-912-13 shall apply. Disposition shall be made within thirty calendar days from the date the oral or written request is received by the department. [Eff 7/19/82; am and comp 6/29/92] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)

917-912-40 Redetermination of eliuibility for social services. (a) The department shall redetermine income and program eligibility for continued social services:

(1) When information is obtained that there are anticipated changes in the individual's or family's situation;

(2) Promptly, not to exceed thirty days, after information is received that changes **have** occurred in the individual's or family's circumstances which may result in ineligibility for services; and

(3) At least once every year from the month eligibility for service was determined.

(b) Redetermination of eligibility for a specific service shall be made in the same manner as the disposition of an application including signing and dating a form prescribed by the department. [Eff 7/19/82; am 1/13/84; comp 6/29/92] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C §1397c)

§17-912-41 Confidentiality. The provisions of chapter 17-601 shall be applicable to the specific services identified in chapters 17-912 to 17-927, except for chapter 17-920.1. [Eff 7/19/82; am and comp 6/29/93] (Auth: HRS §§346-10, 346-14) (Imp: HRS §§346-10, 346-14)

§17-912-42 Reporting changes. (a) Social service recipients shall be responsible to report to the department within thirty days of occurrence any changes in:

(1) Monthly gross income and the source of the income;

- (2) Address, including:
 - (A) Place of residence; **and**
 - (B) Mailing address;
- (3) Family member size;
- (4) Marital status;
- (5) Providers of the service the recipient is receiving; and
- (6) Circumstances which may affect the recipient's eligibility for continuing services, including, but not limited to;
 - (A) Changes in number of hours of service required;
 - (B) Changes in hours of employment; and
 - (C) Anticipated changes in the individual's situation which may affect the individual's eligibility for continued services.

(b) Failure to report information, as specified in subsection (a), which may affect the recipient's eligibility for services or amount of social services payments shall be investigated by the department as a suspected fraud.

(c) In situations where fraud is suspected, the provisions of chapter 17-604.1 shall be applicable. [Eff 7/19/82; am and **comp 6/29/92; am 8/05/93**] (Auth: HRS §346-14) (Imp: HRS 5346-14; 42 U.S.C. §1397c)

§17-912-43 Overpayments and recoupment. (a) An overpayment shall occur when a recipient receives social service cash payments to which the person is not entitled.

(b) Overpayments shall be collected from the individual in the following manner:

- (1) As a refund from the currently available social service cash payment at a rate of ten per cent of the monthly social service payment for individuals who continue to be eligible for social service costs; or
- (2) Recovered for the department by the investigations office (INVO) for individuals who are no longer eligible for cash payments.

(c) Overpayments that meet the definitions of fraud as defined in chapter 17-604.1 shall be referred to the investigations office (INVO) for investigation. [Eff 7/19/82; am and **comp 6/29/92; am 8/05/93**] (Auth: HRS §346-14) (Imp: HRS §346-44)

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§§17-912-44 to 17-912-48 Reserved

SUBCHAPTER 6

TERMINATION, SUSPENSION, OR REDUCTION
OF SERVICE

§17-912-49 Advance notice of action to terminate, suspend, or reduce social services. (a) The department shall give timely and adequate notice prior to initiating action to terminate, suspend, or reduce social services unless the provisions of subsection (d) apply. Under this requirement:

(1) "Timely" means that:

- (A) The department shall mail a written notice at least ten days prior to the effective date of action. The date of action shall be the date on which services shall be terminated, reduced, or suspended; and
- (B) When the department obtains facts indicating need for the action because of probable fraud, the department shall mail a written notice at least five days before social service is actually terminated, suspended, or reduced. Where possible, these facts shall have been verified through collateral sources; and

(2) "Adequate" means a written notice that includes statements of:

- (A) What action the department intends to take;
- (B) Reasons for the intended action;
- (C) The departmental rules supporting the intended action;
- (D) The individual's right to request an informal review, a fair hearing, or both; and
- (E) The circumstances under which social services shall be continued if a fair hearing is requested.

(b) Unless specified otherwise, timely notice shall not be required under the following circumstances but adequate notice shall be sent no later than the date of action when one of the following conditions is met:

- (1) The department has verified the death of a recipient;
- (2) The department receives a clear written statement signed by a recipient that:
 - (A) The recipient no longer wishes social services; or
 - (B) Provides information which necessitates termination or reduction of social services and indicates that the recipient understands the consequences of supplying the information shall be reduction or termination of social service;
- (3) The recipient is admitted or committed to a public institution;
- (4) The recipient is placed in a nursing facility or is hospitalized on a long-term basis;
- (5) The recipient's whereabouts are unknown and mail sent the recipient is returned by the post **office** indicating no known forwarding address. When mail is returned, both timely and adequate notice shall be issued only when the recipient has provided the department with a new address. The returned social service assistance check, however, shall be released to the recipient if the recipient's whereabouts become known during the payment period covered by the returned check;
- (6) The recipient is accepted for social services in another state and this fact is established by the department; or
- (7) A special allowance granted for a specific period is terminated and the recipient is informed in writing at the time the allowance is made that the allowance would automatically terminate at the end of the specified period.

(c) Timely and adequate notice shall be given when automatic grant adjustments are made due to changes in state or federal law. The **notice shall** be adequate if it includes a statement of:

- (1) The intended action;

- (2) Reasons for the intended action;
 - (3) The specific change in law requiring the action; and
 - (4) The circumstances under which a fair hearing may be obtained and assistance may be continued.
- (d) Neither timely nor adequate notice shall be **required** nor shall aid be paid pending a fair hearing when changes in state or federal law or funding result in changes such as deletions or reductions in current social services, reduction or elimination of eligible **groups**, or changes in eligibility requirements for social services provided that:
- (1) At the beginning of a program year, the department issues a public report specifying the social services to be provided and the individuals eligible for the social services during that year;
 - (2) Changes which are made during a program year are identified for the public by a press release prior to the effective date of change; and
 - (3) Recipients to be affected by the changes in the program are informed in writing at least ten days prior to the effective date of change.

The determination that the change meets the criteria of this subsection and that no aid shall be paid pending a fair hearing shall be made by the department. [Eff 7/19/82; am and comp JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-12)

- §17-912-50** Basis for reduction or termination of services. (a) Services shall be reduced or terminated when one or more of the following occur:
- (1) When it is determined that the individual is ineligible for continued services;
 - (2) The recipient moves and leaves no forwarding address or the recipient's whereabouts are unknown;
 - (3) The service is no longer included in the department's scope of service;
 - (4) The recipient is unwilling or unable to make constructive use of the service;

- (5) The department social worker has determined that the recipient's need for the service has decreased;
 - (6) The POS provider no longer has a valid contract with the department to provide the service;
 - (7) The recipient requests termination of services;
 - (8) The recipient leaves the State; or
 - (9) The recipient dies.
- (b) Services shall be reduced or terminated upon mutual agreement between the recipient and the department or after written notice, specified in section 17-912-49, of the intent to reduce or terminate services has been given the recipient. **[Eff 7/19/82; am and comp JUN 29 1992] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §1397c)**

§§17-912-51 and 17-912-52 Reserved