

JAN 19 2007

A BILL FOR AN ACT

RELATING TO LONG-TERM CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the need for
2 personal care due to physical, sensory, cognitive, and self-care
3 disabilities increases with age. By 2020, more than one in four
4 individuals will be sixty years of age or older. As Hawaii's
5 population ages a considerable number of frail and disabled
6 older adults, as well as younger persons with disabilities, will
7 rely on family members and others to provide them with higher
8 levels of long-term care to enable them to remain at home.

9 People who need long-term care often prefer to receive
10 assistance and services at home and to stay in their
11 communities, near family and friends, for as long as possible.
12 Family caregivers of older adults provide over eighty per cent
13 of home care services and over ninety per cent of all long-term
14 care services. At least seventy-five per cent of all family
15 caregiving is provided by women. About two-thirds of frail and
16 disabled older adults living in the community rely solely on
17 informal help, mainly from wives and adult daughters.



1 Family caregivers are an important part of the solution to
2 serious long-term care system problems such as budget and
3 workforce shortages. Family caregivers relieve state spending
4 on nursing home care. During times of fiscal discipline, family
5 caregiving is a way to reduce fiscal spending without
6 compromising the people the State is trying to serve.

7 The legislature further finds that many states have
8 implemented or expanded programs to assist family caregivers in
9 providing care to elderly and disabled individuals who require
10 long-term care. As long-term care costs continue to rise, it is
11 in the interest of the State to assist family caregivers who
12 provide day-to-day, long-term care for care recipients in the
13 home.

14 SECTION 2. (a) The department of health shall establish
15 and administer a pilot program that provides reimbursement to
16 family caregivers who provide free and continuing day-to-day
17 care in the home of a qualified care recipient.

18 (b) To be eligible for reimbursement, a family caregiver
19 shall:

20 (1) Apply to the department of health for reimbursement on
21 a one-page form to be designed by the department of
22 health;



- 1 (2) Provide free and continuing day-to-day care in the
- 2 home of a qualified care recipient;
- 3 (3) Provide written certification from a physician
- 4 licensed under chapter 453 or 460, Hawaii Revised
- 5 Statutes, or an advanced practice registered nurse
- 6 recognized under section 457-8.5, Hawaii Revised
- 7 Statutes, that the qualified care recipient:
- 8 (A) Is unable to perform, without substantial
- 9 assistance from another individual, at least two
- 10 or more activities of daily living, as defined in
- 11 section 346C-1, Hawaii Revised Statutes, for a
- 12 period of at least ninety days due to a loss of
- 13 functional capacity; or
- 14 (B) Requires substantial supervision to protect the
- 15 qualified care recipient from threats to health
- 16 and safety to self or others due to severe
- 17 cognitive impairment such as dementia;
- 18 (4) Not operate any type of nonprofit or for-profit care
- 19 service for disabled or elder individuals; and
- 20 (5) Complete a caregiver educational training course
- 21 certified by the department of health.



1 (c) Reimbursement to a family caregiver may be used to
2 offset:

3 (1) The general expense of providing at-home care provided
4 in person by the family caregiver up to \$1,000
5 annually; or

6 (2) Up to \$1,000 annually for expenses incurred in
7 obtaining home modifications or assistive devices, as
8 approved by the department of health, such as grab
9 bars, safety devices, and wheelchair ramps that help
10 the qualified care recipient carry out tasks required
11 for daily living.

12 (d) Reimbursement to a family caregiver shall not:

13 (1) Be used to purchase care from, or offset the expense
14 of employing, a professional care provider not related
15 to the qualified care recipient; and

16 (2) Be considered an obligation to replace lost wages of
17 the family caregiver.

18 (e) Nothing in this section shall be construed to create
19 an employee or employer relationship between a family caregiver
20 and a qualified care recipient.



1 (f) The department of health shall not be held liable for
2 the care provided to the qualified care recipient by the family
3 caregiver.

4 (g) The department of health shall develop a sliding scale
5 for reimbursement to ensure that an eligible family caregiver
6 whose household income exceeds two hundred per cent of the
7 federal poverty level for Hawaii shall pay a portion of the
8 family caregiver's out-of-pocket expenses described in
9 subsection (c) (2).

10 (h) The department shall adopt rules in accordance with
11 chapter 91, Hawaii Revised Statutes, regarding operating
12 procedures and guidelines to implement this section, including
13 guidelines that address reimbursement:

- 14 (1) To more than one eligible family caregiver; and
15 (2) For the care of more than one qualified care
16 recipient.

17 (i) As used in this section, unless the context requires
18 otherwise:

19 "Family caregiver" means a person, including a non-relative
20 such as a friend or neighbor, who provides free and continuing
21 day-to-day care in the home to a qualified care recipient.

22 "Qualified care recipient" means a person who:



- 1 (1) Is not eligible for medicaid;
- 2 (2) Has an annual income of no more than two hundred per
3 cent of the federal poverty level for Hawaii in the
4 year in which an application for reimbursement is
5 made; and
- 6 (3) Is unable to perform, without substantial assistance
7 from another individual, at least two or more
8 activities of daily living, as defined in section
9 346C-1, Hawaii Revised Statutes, for a period of at
10 least ninety days due to a loss of functional
11 capacity; or
- 12 (4) Requires substantial supervision to protect the
13 qualified care recipient from threats to health and
14 safety to self or others due to severe cognitive
15 impairment such as dementia.

16 SECTION 3. The department of health shall submit:

- 17 (1) A progress report of its findings no later than twenty
18 days prior the convening of each regular legislative
19 session in which the program is administered; and
- 20 (2) A final report no later than twenty days prior to the
21 convening of the regular session of 2012.



1 SECTION 4. Section 235-7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There shall be excluded from gross income, adjusted
4 gross income, and taxable income:

5 (1) Income not subject to taxation by the State under the
6 Constitution and laws of the United States;

7 (2) Rights, benefits, and other income exempted from
8 taxation by section 88-91, having to do with the state
9 retirement system, and the rights, benefits, and other
10 income, comparable to the rights, benefits, and other
11 income exempted by section 88-91, under any other
12 public retirement system;

13 (3) Any compensation received in the form of a pension for
14 past services;

15 (4) Compensation paid to a patient affected with Hansen's
16 disease employed by the State or the United States in
17 any hospital, settlement, or place for the treatment
18 of Hansen's disease;

19 (5) Except as otherwise expressly provided, payments made
20 by the United States or this State, under an act of
21 Congress or a law of this State, which by express
22 provision or administrative regulation or



1 interpretation are exempt from both the normal and
2 surtaxes of the United States, even though not so
3 exempted by the Internal Revenue Code itself;

4 (6) Any income expressly exempted or excluded from the
5 measure of the tax imposed by this chapter by any
6 other law of the State, it being the intent of this
7 chapter not to repeal or supersede any such express
8 exemption or exclusion;

9 (7) Income received by each member of the reserve
10 components of the Army, Navy, Air Force, Marine Corps,
11 or Coast Guard of the United States of America, and
12 the Hawaii national guard as compensation for
13 performance of duty, equivalent to pay received for
14 forty-eight drills (equivalent of twelve weekends) and
15 fifteen days of annual duty, at an:

16 (A) E-1 pay grade after eight years of service;
17 provided that this subparagraph shall apply to
18 taxable years beginning after December 31, 2004;

19 (B) E-2 pay grade after eight years of service;
20 provided that this subparagraph shall apply to
21 taxable years beginning after December 31, 2005;



1 (C) E-3 pay grade after eight years of service;
2 provided that this subparagraph shall apply to
3 taxable years beginning after December 31, 2006;

4 (D) E-4 pay grade after eight years of service;
5 provided that this subparagraph shall apply to
6 taxable years beginning after December 31, 2007;
7 and

8 (E) E-5 pay grade after eight years of service;
9 provided that this subparagraph shall apply to
10 taxable years beginning after December 31, 2008;

11 (8) Income derived from the operation of ships or aircraft
12 if the income is exempt under the Internal Revenue
13 Code pursuant to the provisions of an income tax
14 treaty or agreement entered into by and between the
15 United States and a foreign country, provided that the
16 tax laws of the local governments of that country
17 reciprocally exempt from the application of all of
18 their net income taxes, the income derived from the
19 operation of ships or aircraft that are documented or
20 registered under the laws of the United States;



- 1 (9) The value of legal services provided by a prepaid
2 legal service plan to a taxpayer, the taxpayer's
3 spouse, and the taxpayer's dependents;
- 4 (10) Amounts paid, directly or indirectly, by a prepaid
5 legal service plan to a taxpayer as payment or
6 reimbursement for the provision of legal services to
7 the taxpayer, the taxpayer's spouse, and the
8 taxpayer's dependents;
- 9 (11) Contributions by an employer to a prepaid legal
10 service plan for compensation (through insurance or
11 otherwise) to the employer's employees for the costs
12 of legal services incurred by the employer's
13 employees, their spouses, and their dependents; [~~and~~]
- 14 (12) Amounts received in the form of a monthly surcharge by
15 a utility acting on behalf of an affected utility
16 under section 269-16.3 shall not be gross income,
17 adjusted gross income, or taxable income for the
18 acting utility under this chapter. Any amounts
19 retained by the acting utility for collection or other
20 costs shall not be included in this exemption[-]; and
- 21 (13) Reimbursements paid to a family caregiver pursuant to
22 section 2 of Act _____, Session Laws of Hawaii 2007."



1 SECTION 5. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$, or so
 3 much thereof as may be necessary for fiscal year 2007-2008, and
 4 the same sum, or so much thereof as may be necessary for fiscal
 5 year 2008-2009, to provide reimbursement to family caregivers
 6 who provide at-home care to qualified care recipients.

7 The sums appropriated shall be expended by the department
 8 of health for the purposes of this Act.

9 SECTION 6. Upon passage of this Act, the revisor shall
 10 insert the act number of this Act into the amendment made to
 11 section 235-7(a), Hawaii Revised Statutes, in section 4 of this
 12 Act.

13 SECTION 7. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on July 1, 2007, and
 16 shall be repealed on June 30, 2012; provided that section
 17 235-7(a), Hawaii Revised Statutes, is reenacted in the form in
 18 which it read on the day before the approval of this Act.

19

INTRODUCED BY:

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Rosalyn H. Baker
Franne Chun Oakland



Report Title:

Long-Term Care; Family Caregiver Reimbursement

Description:

Establishes a pilot program to reimburse family caregivers of functionally dependent or cognitively impaired care recipients; appropriates funds for that purpose; sunsets in 2012.

