

---

---

# A BILL FOR AN ACT

RELATING TO HUMAN SERVICES.

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

1 PART I

2 SECTION 1. The number of individuals who require treatment  
3 for mental health issues is growing. Prescription medications  
4 such as psychotropic drugs have become increasingly expensive  
5 and are not always effective for every patient. With the  
6 current difficult economic climate, alternatives must be  
7 explored to implement cost-saving measures while preserving an  
8 appropriate level of care. While the legislature finds that  
9 patients should have access to necessary medication, the  
10 medication should also be monitored for effectiveness, and the  
11 possibility of using generic medications should be explored.

12 SECTION 2. Section 346-59.9, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§346-59.9 Psychotropic medication.** (a) This section  
15 shall apply only to the QUEST, QUEST Expanded Access, and fee-  
16 for-service programs administered by the department when the  
17 department or the department's contracted health plan is the  
18 primary insurer. When the department is the secondary insurer,



1 the department and its contracted health plans shall be  
2 responsible only for the secondary insurer's share of any  
3 psychotropic medication covered by the primary insurer.

4 ~~[-(a)]~~ (b) The department and its contracted health plans  
5 shall not impose any restriction or limitation on the coverage  
6 for, or a recipient's access to, [psychotropic medication,  
7 provided that the psychotropic medication shall be prescribed by  
8 a psychiatrist, physician, or an advanced practice registered  
9 nurse with prescriptive authority under chapter 457, duly  
10 licensed in the State.] antipsychotic medication.

11 (c) The department and its contracted health plans shall  
12 not impose any restriction or limitation on the coverage for, or  
13 a recipient's access to, antidepressant medication other than:

14 (1) Requiring that an individual must have two failed  
15 attempts on a generic antidepressant medication to  
16 receive coverage for a new brand-name antidepressant  
17 prescription; and

18 (2) Requiring that if an individual does not have two  
19 failed attempts on a generic antidepressant  
20 medication, that individual shall receive coverage for  
21 a brand-name antidepressant medication with prior  
22 authorization by the contracted health plan; provided



1           that while a prior authorization request for a brand-  
2           name antidepressant medication submitted by the  
3           prescriber is pending, a supply of the prescribed  
4           medication sufficient to last until the request is  
5           resolved shall be covered if requested by the  
6           prescriber.

7           For purposes of this subsection, a "failed attempt" means  
8           that the prescribed generic antidepressant medication up to the  
9           maximum FDA-approved dosage is not effective in treating the  
10          individual, or the individual's compliance is compromised due to  
11          the side effects caused by the medication.

12          (d) The department and its contracted health plans shall  
13          not impose any restriction or limitation on the coverage for, or  
14          a recipient's access to, anti-anxiety medication other than:

15           (1) Requiring that an individual must have two failed  
16           attempts on a generic anti-anxiety medication to  
17           receive coverage for a new brand-name anti-anxiety  
18           prescription; and

19           (2) Requiring that if an individual does not have two  
20           failed attempts on a generic anti-anxiety medication,  
21           that individual shall receive coverage for a brand-  
22           name anti-anxiety medication with prior authorization



1           by the contracted health plan; provided that while a  
2           prior authorization request for a brand-name anti-  
3           anxiety medication submitted by the prescriber is  
4           pending, a supply of the prescribed medication  
5           sufficient to last until the request is resolved shall  
6           be covered if requested by the prescriber.

7           For purposes of this subsection, a "failed attempt" means  
8           that the prescribed generic anti-anxiety medication up to the  
9           maximum FDA-approved dosage is not effective in treating the  
10           individual, or the individual's compliance is compromised due to  
11           the side effects caused by the medication.

12           (e) The department and its contracted health plans shall  
13           not require any individual stable on a brand-name antidepressant  
14           medication on or before July 1, 2010, to transfer to a different  
15           antidepressant medication, generic or brand-name, unless the  
16           individual's condition becomes unstable and requires the  
17           medication to be replaced.

18           (f) The department and its contracted health plans shall  
19           not require any individual stable on a brand-name anti-anxiety  
20           medication on or before July 1, 2010, to transfer to a different  
21           anti-anxiety medication, generic or brand-name, unless the

1 individual's condition becomes unstable and requires the  
2 medication to be replaced.

3 (g) The department and its QUEST contracted health plans  
4 shall have the authority to investigate fraud, abuse, or  
5 misconduct.

6 ~~[(b)]~~ (h) The department shall report to the legislature  
7 no later than twenty days before the convening of each regular  
8 session on:

9 (1) The number of brand-name and generic prescriptions  
10 written ~~[pursuant to this section,]~~ to which this  
11 section applies; and

12 (2) The ~~[cost and impact of psychiatrists, physicians, or~~  
13 ~~advanced practice nurses prescribing medications,~~  
14 ~~pursuant to this section, that are not part of the~~  
15 ~~existing formulary; and~~

16 ~~(3) The overall use of psychotropic medication under~~  
17 ~~chapter 346.]~~ amount expended on brand-name  
18 prescriptions and the amount expended on generic  
19 prescriptions written each fiscal year to which this  
20 section applies.

21 (i) All psychotropic medications covered by this section  
22 shall be prescribed by a psychiatrist, a physician, or an



1 advanced practice registered nurse with prescriptive authority  
2 under chapter 457 and duly licensed in the state.

3 [~~e~~] (j) As used in this section[, "psychotropic]:  
4 "Anti-anxiety medication" means those medications included  
5 in the United States Pharmacopeia's anxiolytic therapeutic  
6 category.

7 "Antidepressant medication" means those medications  
8 included in the United States Pharmacopeia's antidepressant  
9 therapeutic category.

10 "Antipsychotic medication" means those medications included  
11 in the United States Pharmacopeia's antipsychotic therapeutic  
12 category.

13 "Psychotropic medication" means only [~~these agents~~]  
14 antipsychotic, antidepressant, or anti-anxiety medications  
15 approved by the United States Food and Drug Administration for  
16 the treatment of mental or emotional disorders."

17 SECTION 3. The department of human services, in  
18 conjunction with health care providers, health care plans, and  
19 mental health advocates, shall submit a report detailing the  
20 status of the implementation of part I of this Act, including  
21 the numbers of persons that use each type of coverage provided



1 therein, to the legislature no later than twenty days prior to  
2 the convening of the regular session of 2011.

3 PART II

4 SECTION 4. The department of human services currently  
5 provides certain death benefits for individuals who were medical  
6 assistance or financial assistance recipients at the time of  
7 death. The legislature finds it appropriate for the department  
8 of human services to issue a death benefit amount equivalent to  
9 the Social Security Administration's one-time lump-sum death  
10 benefit if the deceased individual is ineligible for the Social  
11 Security Administration's one-time lump-sum death benefit, and  
12 to bear a larger cost for certain services for unclaimed  
13 corpses, if necessary.

14 SECTION 5. Section 346-15, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§346-15 ~~[Burial of]~~ Death benefits for deceased medical  
17 or financial assistance recipients ~~[or]~~ and disposition of  
18 unclaimed corpses. (a) ~~[The]~~ Where the decedent was a medical  
19 assistance or financial assistance recipient at the time of  
20 death and is ineligible for the Social Security Administration's  
21 one-time lump-sum death benefit, the department ~~[of human~~  
22 ~~services]~~ may ~~[bear the cost of the burial of deceased medical~~



1 ~~or financial assistance recipients or unclaimed corpses. Burial~~  
2 ~~services include the customary mortuary, crematory, cemetery,~~  
3 ~~and other services essential in providing a dignified burial.]~~  
4 issue a lump-sum death benefit in an amount equal to the Social  
5 Security Administration's one-time lump-sum death benefit for  
6 the year in which the recipient died.

7 (b) ~~[The department may pay for mortuary and crematory~~  
8 ~~services to be furnished by any licensed provider of mortuary~~  
9 ~~and crematory services. Mortuary and crematory payments shall~~  
10 ~~be made to the extent of cost, or in the sum of \$400, whichever~~  
11 ~~is less.] The department may authorize and bear the cost of the~~  
12 mortuary and crematory services for unclaimed corpses furnished  
13 by any licensed provider of mortuary or crematory services.  
14 Payments for mortuary and crematory services shall be made to  
15 the extent of the cost, or in the sum of \$800 in total,  
16 whichever is less, for each unclaimed corpse.

17 ~~[(c) The department may pay for cemetery services, to be~~  
18 ~~furnished by any licensed provider of cemetery services.~~  
19 ~~Cemetery payments shall be made to the extent of cost, or in the~~  
20 ~~sum of \$400, whichever is less.~~





1 ~~(d) In cases where the decedent is survived by relatives,~~  
2 ~~the relatives shall be permitted to make their own arrangements~~  
3 ~~for the burial or cremation of their deceased relative.~~

4 ~~(e) The person submitting an application for funeral~~  
5 ~~payments under the department's funeral payment program,]~~

6 (c) Any person submitting an application for the lump-sum  
7 death benefit described in subsection (a), on behalf of a  
8 deceased medical or financial assistance recipient, shall have  
9 sixty days from the date of the death of the deceased to submit  
10 the application [~~for funeral payments~~] to the department. [~~This~~  
11 ~~subsection shall not apply to applications submitted by the~~  
12 ~~respective county medical examiner or coroner on behalf of~~  
13 ~~unclaimed corpses.~~

14 ~~(f) All unclaimed corpses shall be cremated. The~~  
15 ~~department of human services shall authorize the cremation of~~  
16 ~~unclaimed corpses.~~

17 ~~(g)]~~ (d) A person or public or private agency, including  
18 the department [~~of human services~~], shall not be liable for any  
19 damage or subject to criminal prosecution for any act done  
20 pursuant to and in compliance with this section.

21 ~~(h)]~~ (e) For the purposes of this section, "unclaimed  
22 corpse" means the remains of any deceased person for whom no one



1 has assumed responsibility for disposition of the body within  
2 five working days, excluding weekends, from the date of death  
3 and about whom the department and the respective county medical  
4 examiner or coroner have no actual knowledge of a legally  
5 responsible party.

6 ~~[(i)]~~ (f) The department shall adopt rules pursuant to  
7 chapter 91 for purposes of administering and implementing this  
8 section."

9 PART III

10 SECTION 6. The department of human services is prohibited  
11 from expending any moneys from the Medicaid budget on purposes  
12 or programs that have not been explicitly authorized by the  
13 legislature. Moneys appropriated for Medicaid programs may not  
14 be transferred, shifted, moved, changed, or spent on any  
15 programs other than programs directly related to Medicaid or  
16 programs specifically appropriated for by the legislature;  
17 provided that for nine months beginning on May 1, 2010, the  
18 department of human services may expend up to \$5,000,000 for the  
19 Hawaii premium plus program created by the department under  
20 section 17-1709.2, Hawaii Administrative Rules.



PART IV

1  
2 SECTION 7. If any provision of this Act, or the  
3 application thereof to any person or circumstance is held  
4 invalid, the invalidity does not affect other provisions or  
5 applications of the Act, which can be given effect without the  
6 invalid provision or application, and to this end the provisions  
7 of this Act are severable.

8 SECTION 8. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect on July 1, 2010;  
11 provided that on June 30, 2012, this Act shall be repealed and  
12 sections 346-15 and 346-59.9, Hawaii Revised Statutes, shall be  
13 reenacted in the form in which they read on the day prior to the  
14 effective date of this Act; and provided further that section 6  
15 of this Act shall take effect retroactive to May 1, 2010.



**Report Title:**

Department of Human Services; QUEST

**Description:**

Makes amendments to the QUEST psychotropic medication benefits; provides a state lump-sum death benefit in an amount equal to the Social Security Administration's lump-sum death benefit for deceased medical or financial assistance recipients who are ineligible for the Social Security Administration benefit. Prohibits the DHS from making any expenditures of funds appropriated for Medicaid on any programs not specifically related to Medicaid or not authorized by the Legislature and restricts the use funds for the Hawaii Premium Plus Program. Sunsets June 30, 2012. (HB2774 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

