

MAR 12 2021

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH TO CHANGE ITS ELIGIBILITY CRITERIA FOR THE HOME AND COMMUNITY-BASED SERVICES MEDICAID WAIVER FOR INDIVIDUALS HAVING INTELLECTUAL OR DEVELOPMENTAL DISABILITIES, OR MENTAL ILLNESSES.

1 WHEREAS, Hawaii residents having intellectual and
2 developmental disabilities who are eligible for services from
3 the Developmental Disabilities Division are eligible for
4 Medicaid, and if they meet the level of care criteria, they may
5 apply for the Medicaid Section 1915(c) Home and Community-Based
6 Services Waiver for Individuals with Intellectual and
7 Developmental Disabilities, otherwise known as the Medicaid I/DD
8 Waiver; and
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10 WHEREAS, the Med-QUEST Division of the Department of Human
11 Services works in partnership with the Developmental
12 Disabilities Division of the Department of Health and
13 stakeholders to design an appropriate waiver that meets the
14 needs of individuals having intellectual and developmental
15 disabilities; and
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17 WHEREAS, both divisions ensure that the waiver is
18 implemented in compliance with all waiver requirements, federal
19 and state laws, and waiver standards; and
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21 WHEREAS, pursuant to section 11-88.1-1.5(a), Hawaii
22 Administrative Rules, to be considered as having an
23 developmental disability, an individual must have, among other
24 factors, a diagnosis that meets the definition of an eligible
25 condition for a severe and chronic disability, including
26 cerebral palsy; epilepsy; autism spectrum disorder; or a
27 neurological condition, central nervous system disorder, or
28 chromosomal disorder that results in impairment in both general
29 intellectual functioning and adaptive behavior; and
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1 WHEREAS, pursuant to section 11-88.1-1.5(a)(3), Hawaii
2 Administrative Rules, an individual is ineligible for the
3 Medicaid I/DD Waiver if the individual's impairments are
4 primarily from dementia, mental illness, an emotional disorder,
5 substance abuse, sensory impairment, a learning disability,
6 attention deficit hyperactivity disorder, a spinal cord injury,
7 or a neuromuscular disorder; and
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9 WHEREAS, section 11-88.1-1.5(a)(3), Hawaii Administrative
10 Rules, unfairly excludes from eligibility from services a number
11 of individuals who would otherwise be eligible based on their
12 developmental disabilities; and
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14 WHEREAS, the Department of Health may amend or repeal
15 administrative rules under its purview, unless otherwise
16 prohibited by federal or state laws or agreements with federal
17 authorities; now, therefore,
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19 BE IT RESOLVED by the Senate of the Thirty-first
20 Legislature of the State of Hawaii, Regular Session of 2021, the
21 House of Representatives concurring, that the Department of
22 Health is requested to change its eligibility criteria for the
23 Home and Community-Based Services Medicaid Waiver for
24 Individuals with Developmental Disabilities; and
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26 BE IT FURTHER RESOLVED that if the Department of Health may
27 repeal section 11-88.1-1.5(a)(3), Hawaii Administrative Rules,
28 without violating any federal or state law or any binding
29 agreements with federal authorities, the Department of Health is
30 requested to take steps necessary under Chapter 91, Hawaii
31 Revised Statutes, for that repeal; and
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33 BE IT FURTHER RESOLVED that if the Department of Health
34 believes that the repeal of section 11-88.1-1.5(a)(3), Hawaii
35 Administrative Rules, would be in violation of any federal or
36 state law or any agreement with federal authorities, the
37 Department of Health is requested to take steps necessary to
38 remove any prohibiting factors that would preclude the repeal,
39 including the proposal of appropriate legislation and the
40 renegotiation of applicable agreements with federal authorities;
41 and
42



S.C.R. NO. 119

1 BE IT FURTHER RESOLVED that the Director of Health is
2 requested to submit a status report on its development of new
3 eligibility criteria, including any proposed legislation, to the
4 Legislature no later than twenty days prior to the convening of
5 the Regular Session of 2022; and

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7 BE IT FURTHER RESOLVED that certified copies of this
8 Concurrent Resolution be transmitted to the Director of Health,
9 Administrator of the Division of Developmental Disabilities,
10 Director of Human Services, and Administrator of the Med-QUEST
11 Division.

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OFFERED BY: Kurt Ferella

