
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. Hawaii's health care system consists of a
3 myriad of services that must be coordinated and integrated to
4 ensure access to quality care at the appropriate level for all
5 of Hawaii's residents. A single user of health care often
6 accesses different providers that deliver different products and
7 services, and may transition from one level of care to another
8 over a period of time.

9 Acute care hospitals deliver care to the most seriously ill
10 patients. As such, the cost of hospital care is very high due
11 to high staffing costs, the high costs of technology that
12 permeates hospitals in the form of equipment and supplies, the
13 high costs of medication, and regulatory and quality
14 requirements.

15 Patients who receive care at hospitals and recover enough
16 of their health so that they no longer require hospitalization,
17 but are still in need of services, should be transferred out of
18 the hospital to a provider that can appropriately and safely



1 care for their needs. Such a transfer supports an improved
2 quality of life for the patient and sustains the integrity of
3 the acute care system by creating availability of bed-space for
4 others who may require hospitalization. This balanced flow of
5 patient movement matches the appropriate provider to the needs
6 of the patient. In doing so, it better manages the financing of
7 health care.

8 The determination about an appropriate level of care is
9 based on the patient's condition and input from a multi-
10 disciplinary care team. The provision of long-term care, either
11 in a facility or in a home- and community-based setting, is far
12 less costly than hospital care.

13 Unfortunately, due to unique and unusual circumstances,
14 Hawaii has a shortage of beds in nursing facilities relative to
15 its population. Most of Hawaii's long-term care facilities,
16 which include skilled nursing facilities, assisted living
17 facilities, adult residential care homes, and foster family
18 homes, are full nearly all the time. Placement in long-term
19 care is especially difficult when a patient has a medically
20 complex condition that demands resources which are not available
21 at many long-term care facilities in Hawaii. As a result, many
22 acute care hospital patients who are ready for long-term care



1 cannot be discharged and must wait in the acute care hospital
2 until space becomes available.

3 The shortage of long-term care beds is an undesirable
4 situation from three perspectives:

5 (1) The quality of life of the patient is diminished;

6 (2) A patient in an acute care hospital who is waitlisted
7 for long-term care occupies a bed that may be needed
8 by someone else with an acute illness or injury; and

9 (3) Hospital care is very expensive, so the waitlisted
10 patient contributes to higher costs in an acute care
11 hospital.

12 Hawaii's medicaid program can be modified to facilitate the
13 flow of patients from acute care hospitals to long-term care
14 facilities. When a medicaid-eligible patient is treated by an
15 acute care hospital, medicaid pays a rate for hospital care.
16 The payment is based upon the level of care needed by the
17 patient. When the patient is well enough to be transferred to
18 long-term care, the medicaid payment is reduced to a rate that
19 is 20 per cent to 30 per cent of the actual cost of acute care
20 hospitalization.

21 If the hospital is not able to transfer the patient to
22 long-term care, the hospital must bear the financial burden of



1 reduced medicaid payments. In addition, the inability to
2 transfer a patient who is deemed ready for discharge by a
3 physician means that the waitlisted patient uses an acute care
4 bed that may be needed by other, more acutely ill patients.
5 Thus, there is an opportunity cost to the hospital and the
6 patients.

7 At any particular time, a total of about 200 patients in
8 Hawaii's hospitals may be waiting to be transferred to long-term
9 care. Patients with certain conditions can be on the waitlist
10 for weeks, months, or even years. The total loss to hospitals
11 due to waitlisted patients was estimated to be at least
12 \$80,000,000 in 2006.

13 A significant part of that loss is due to underpayment by
14 medicaid. The underpayment is unfair to acute care hospitals
15 because medicaid is, in effect, a public-private partnership.
16 The public sector provides the funding, and the private sector
17 provides the services. As a result of the underpayment, acute
18 care hospitals and long-term care facilities are weakened
19 financially, and the stability of Hawaii's entire health care
20 system is diminished.

21 In the past, acute care hospitals were able to absorb
22 medicaid losses since payments from commercial and other payers



1 helped to offset the underfunded costs of care for medicaid
2 patients. Over time, the cost of health care has increased at a
3 faster rate than increases in payments from all payers. In
4 addition, significant enhancements in medical technology over
5 the past several years have created a greater expectation that
6 acute care hospitals will invest in medical equipment and
7 information technology. As a result, acute care hospitals are
8 no longer able to cover the underpaid cost of caring for
9 medicaid patients and adequately invest in medical technology.

10 The result is that many acute care hospitals are on the
11 verge of financial failure. For example, Kahuku hospital would
12 have ceased operations due to bankruptcy if it were not annexed
13 by the Hawaii health systems corporation, which is subsidized by
14 state government. One of the major reasons given for Kahuku
15 hospital's financial troubles was underpayment by medicaid. The
16 Hawaii health systems corporation itself is seeking an emergency
17 appropriation largely because of losses due to underpayment by
18 medicaid. All hospitals in Hawaii face the same problem.

19 Acute care hospitals must be supported financially so that
20 they can continue to care for our acutely ill while longer term
21 solutions to the waitlisted patient problem are being developed.
22 As described more fully in the Waitlist task force report to the



1 2008 Legislature, pursuant to Senate Concurrent Resolution No.
2 198 (2007), this is one piece of the problem. The multi-faceted
3 waitlist problem is being addressed from a number of angles,
4 both legislatively and non legislatively.

5 In addition, medicaid payments for long-term care must be
6 addressed with payments for individuals with medically complex
7 conditions, such as bariatric patients and severely obese
8 patients, needing immediate attention. These payments should be
9 cost-based since the current system of acuity-based
10 reimbursement does not effectively address these types of
11 patients.

12 Furthermore, medicaid managed care (QUEST Expanded) is
13 projected to begin in November 2008. Long-term care providers
14 will need to negotiate rates with managed care plans.
15 Historical patterns in other states where managed care entered
16 the market resulted in long-term care facility closures due to
17 low payments for long-term care. The 2008 medicaid
18 reimbursement rates for long-term care facilities in Hawaii, as
19 set by Act 294, Session Laws of Hawaii 1998, and established by
20 medicaid on January 1, 2008, and as amended herein, should be
21 established as the base rate for all future negotiations with
22 managed care companies. These rates should be the lowest



1 allowable to long-term care providers in future negotiations
2 under QUEST Expanded. This assurance will maintain Hawaii's
3 current level of nursing home providers as well as be an
4 incentive for interested entrepreneurs to expand current
5 operations or consider building additional long-term care beds
6 in Hawaii in response to the demand for post acute care.

7 The purpose of this part is to provide fair compensation
8 to:

- 9 (1) Acute care hospitals for the services they provide to
10 medicaid patients who have been treated for acute
11 illnesses and injuries and who have recovered
12 sufficiently so that they should be transferred to
13 long-term care, but for whom long-term care is not
14 available; and
- 15 (2) Long-term care facilities for services provided to
16 patients with medically complex conditions who prior
17 to admission to the long-term care facility were
18 receiving acute care services in an acute care
19 hospital.

20 This part also ensures that when Quest Expanded is implemented,
21 long-term care facilities will receive medicaid payments that



1 are at least equal to the rates in effect immediately prior to
2 the implementation of Quest Expanded.

3 SECTION 2. Chapter 346D, Hawaii Revised Statutes, is
4 amended by adding three new sections to be appropriately
5 designated and to read as follows:

6 "§346D-_____ Medicaid reimbursement equity; acute-care
7 hospital-based long-term care. Not later than July 1, _____,
8 there shall be no distinction between acute-care-based and long-
9 term-care-based reimbursement rates for patients held in an
10 acute care facility due to a lack of bed space in a long-term
11 care facility.

12 §346D-_____ Medicaid reimbursement equity; medically
13 complex conditions. Not later than July 1, _____, Medicaid
14 reimbursements to long-term care facilities for patients with
15 medically complex conditions who, prior to admission to the
16 long-term care facility were receiving acute care services in an
17 acute care hospital, shall be based on actual costs to the long-
18 term care facility. As used in this section "medically complex
19 condition" means a combination of chronic physical conditions,
20 illnesses, or other medically related factors that significantly
21 impact an individual's health and manner of living and cause



1 reliance upon technological, pharmacological, and other
2 therapeutic interventions to sustain life.

3 §346D- Medicaid reimbursement equity; QUEST expanded.

4 Not later than July 1, , reimbursements received by long-
5 term care facilities under QUEST expanded shall be no less than
6 those received under medicaid immediately prior to the
7 implementation of QUEST expanded."

8 SECTION 5. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so
10 much thereof as may be necessary for fiscal year 2008-2009 to
11 increase the acute medical services payment rates and medicaid
12 reimbursements to acute care hospitals for patients who are
13 waitlisted for long-term care.

14 The sum appropriated shall be expended by the department of
15 human services for the purposes of part I of this Act.

16 SECTION 6. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2008-2009 for
19 medicaid reimbursements to long-term care facilities for
20 patients who prior to admission to the long-term care facility,
21 were receiving acute care services in an acute care hospital.



1 children nationwide. Presumptive eligibility means that the
2 department of human services shall make a preliminary or
3 "presumptive determination" to authorize medical assistance in
4 the interval between application and the final medicaid
5 eligibility determination based on the likelihood that the
6 applicant will be eligible.

7 The purpose of this part is to require the department of
8 human services to provide presumptive eligibility to medicaid or
9 QUEST eligible waitlisted patients.

10 SECTION 8. Chapter 346, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§346- Presumptive eligibility under medicaid or QUEST
14 for waitlisted patients. (a) The department shall presume that
15 a patient who is on the wait list for medicaid or QUEST coverage
16 is eligible for coverage; provided that the applicant is able to
17 show proof of:

18 (1) An annual income at or below the maximum level allowed
19 under federal law or the medicaid Section 1115 waiver
20 approved for Hawaii, as applicable;
21 (2) Confirmation of waitlisted status as certified by a
22 health care provider licensed in Hawaii; and



1 (3) Meeting the level of care requirement for
2 institutional or home and community based long term
3 care as determined by a physician licensed in Hawaii.

4 The presumption shall apply immediately upon application.
5 The patient or guardian shall be notified within forty-five days
6 of the application for continuing coverage under either medicaid
7 or QUEST.

8 Waitlisted patients who are presumptively covered by
9 medicaid or QUEST shall be deemed eligible for services and
10 shall be processed for coverage under the State's medicaid or
11 QUEST program.

12 (b) If the waitlisted patient is later determined to be
13 ineligible for medicaid or QUEST after receiving services during
14 the presumptive eligibility period, the department shall
15 discontinue enrollment of the waitlisted patient and notify the
16 provider and the plan, if applicable, of the discontinued
17 enrollment by facsimile transmission or e-mail. The department
18 shall provide reimbursement to the provider or the plan for the
19 charges incurred during the period of presumptive eligibility."

20 SECTION 9. The department of human services shall submit a
21 report no later than twenty days prior to the convening of the
22 2011 regular session of findings and recommendations to the



1 legislature regarding the costs and other issues related to
2 presumptive eligibility.

3 PART III

4 SECTION 10. New statutory material is underscored.

5 SECTION 11. This Act shall take effect on January 1, 2050;
6 provided that part II of this Act shall be repealed on June 30,
7 2011.



Report Title:

Medicaid Reimbursement; Long-term Care

Description:

Ensures equity in reimbursements from Medicaid for patients transferred or to be transferred from an acute care hospital to a long-term care facility. Requires reimbursement rates for long-term care under QUEST Expanded to remain no less than the level of Medicaid rates at the time of QUEST Expanded taking effect. Requires the Department of Human Services to provide presumptive eligibility through June 30, 2011, to patients waitlisted for Medicaid or QUEST coverage. Requires the Department of Human Services to report to the Legislature.

(HB2170 HD2)

