

JAN 19 2007

A BILL FOR AN ACT

RELATING TO NEEDS ALLOWANCE.

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

1 SECTION 1. The Social Security Administration currently
2 requires \$30 of monthly benefits be set aside for social
3 security recipients who reside in certain institutional care
4 settings. The \$30 is used for the individual's needs. The
5 personal needs allowance is intended to pay for clothing,
6 toiletries, bus fare, personal postage costs, snacks, and other
7 incidental expenses of day-to-day living.

8 In 1974, the federal government established the minimum
9 needs allowance for a nursing home resident to be \$25, which was
10 raised in 1988 to \$30 which still is in effect today. In 2004,
11 only eleven states remained at \$30, the other states having
12 since raised their minimum allowance. If the needs allowance
13 was pegged to the Consumer Price Index with 1974 as a baseline,
14 the equivalent buying power of \$25 then would be \$115.19 in
15 2004.

16 Raising the needs allowance may require the use general
17 funds. However, the legislature finds that it is unconscionable
18 to fail to raise the \$30 to allow residents of long-term care



1 facilities and community care home residents to enjoy a
2 minimally acceptable daily quality of life.

3 The purpose of this Act is to establish a needs allowance
4 for persons residing in community care homes and other long-term
5 care facilities.

6 SECTION 2. Chapter 346D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 **"§346D- Needs allowance; waiver program individuals.**

10 (a) There is created a monthly needs allowance for individuals
11 living in adult residential care home type I and type II
12 facilities, licensed developmental disabilities domiciliary
13 homes as defined under section 321-15.9, community care foster
14 family homes as defined under section 346-331, certified adult
15 foster homes as defined under section 321-11.2, domiciliary care
16 as defined in section 346-1, nursing facility as defined in
17 section 346E-1, or community-based residence as part of the
18 residential alternatives community care program. The needs
19 allowance shall be administered by the department of human
20 services to pay for clothing and other personal miscellaneous
21 needs such as bus fare, personal postage costs, haircuts, and
22 other costs of day-to-day living.

1 (b) The State's supplemental payment for needs allowance
2 under subsection (a) shall be increased by an amount necessary
3 to bring the allowance up to \$50 per month, to be increased
4 annually in an amount equal the Social Security Income benefit
5 increase. The payment under this subsection shall be afforded
6 to an individual notwithstanding that the individual is
7 incapacitated; provided that the moneys may be spent on behalf
8 of the client with a written accounting.

9 (c) The needs allowance payment is not intended to replace
10 or affect the funds received from the federal supplemental
11 security income program, and shall be supplemental to any funds
12 provided to a recipient by the federal supplemental security
13 income program.

14 (d) The operator shall pay for generic toiletries (toilet
15 paper, hand soap, paper towels), use of linens (bedding, sheet,
16 blanket, towels, bath rug), and meals and snacks for outings
17 (prorated to be equal to the cost of the meal and snack or the
18 cost of laundry services and supplies).

19 (e) The needs allowance shall apply to persons otherwise
20 eligible to receive monthly income pursuant to state law or
21 rules, and federal laws or regulations, and is not intended to



1 affect the classifications or number of persons eligible to
2 receive such funds."

3 SECTION 3. Section 235-7, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

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

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

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

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

21 (5) Except as otherwise expressly provided, payments made
22 by the United States or this State, under an act of

1 Congress or a law of this State, which by express
2 provision or administrative regulation or
3 interpretation are exempt from both the normal and
4 surtaxes of the United States, even though not so
5 exempted by the Internal Revenue Code itself;

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

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

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

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

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

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

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

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

1 operation of ships or aircraft that are documented or
2 registered under the laws of the United States;

3 (9) The value of legal services provided by a prepaid
4 legal service plan to a taxpayer, the taxpayer's
5 spouse, and the taxpayer's dependents;

6 (10) Amounts paid, directly or indirectly, by a prepaid
7 legal service plan to a taxpayer as payment or
8 reimbursement for the provision of legal services to
9 the taxpayer, the taxpayer's spouse, and the
10 taxpayer's dependents;

11 (11) Contributions by an employer to a prepaid legal
12 service plan for compensation (through insurance or
13 otherwise) to the employer's employees for the costs
14 of legal services incurred by the employer's
15 employees, their spouses, and their dependents; ~~and~~

16 (12) Amounts received in the form of a monthly surcharge by
17 a utility acting on behalf of an affected utility
18 under section 269-16.3 shall not be gross income,
19 adjusted gross income, or taxable income for the
20 acting utility under this chapter. Any amounts
21 retained by the acting utility for collection or other
22 costs shall not be included in this exemption~~[-]~~; and

1 (13) Amounts received in the form of a monthly needs
2 allowance under section 346D- , received:
3 (A) Indirectly by a facility operator on behalf of an
4 individual resident of a qualified facility; or
5 (B) Directly by an individual resident of a qualified
6 facility."

7 (14) Amounts received in the form of a monthly needs
8 allowance received indirectly by a facility operator
9 on behalf of an individual resident of a qualified
10 facility, as provided in section 346D- ."

11 SECTION 4. Section 237-24.75, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+] §237-24.75 [+] **Additional exemptions.** In addition to
14 the amounts exempt under section 237-24, this chapter shall not
15 apply to amounts received [as]:

- 16 (1) As a beverage container deposit collected under chapter
17 342G, part VIII[-]; and
- 18 (2) In the form of a monthly needs allowance received
19 indirectly by a facility operator on behalf of an
20 individual resident of a qualified facility, as
21 provided in section 346D- ."

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, to
4 provide a monthly needs allowance for individuals living in
5 adult residential care home type I and type II facilities,
6 licensed developmental disabilities domiciliary homes as defined
7 under section 321-15.9, Hawaii Revised Statutes, community care
8 foster family homes as defined under section 346-331, Hawaii
9 Revised Statutes, certified adult foster homes as defined under
10 section 321-11.2, Hawaii Revised Statutes, domiciliary care as
11 defined in section 346-1, Hawaii Revised Statutes, nursing
12 facility as defined in section 346E-1, Hawaii Revised Statutes,
13 or community-based residence as part of the residential
14 alternatives community care program, as provided in section 2 of
15 this Act.

16 The sum appropriated shall be expended by the department of
17 human services for the purposes of this Act.

18 SECTION 6. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 2007;
20 provided that amendments to section 235-7(a), Hawaii Revised

1 Statutes, shall apply to taxable years beginning after
2 December 31, 2006.
3

INTRODUCED BY: Erzanne Chun Oakland
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Report Title:

Needs Allowance; Care Home Residents

Description:

Establishes a needs allowance for residents of care homes and long-term care facilities.

