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## A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that it is in the State's  
2 best interest to ensure that patients waitlisted for long-term  
3 care or other types of care receive appropriate medical care by  
4 authorizing the department of human services to apply medicaid  
5 presumptive eligibility to qualified waitlisted patients.  
6 Action based on presumptive eligibility means that the  
7 department of human services shall make a preliminary or  
8 "presumptive" determination to authorize medical assistance in  
9 the interval between application for assistance and the final  
10 medicaid eligibility determination based on the likelihood that  
11 the applicant will be eligible.

12           On average, there are at any given time two hundred  
13 patients in acute care hospital settings across the State who  
14 are waitlisted for long-term care. Waitlisted patients are  
15 those who are deemed medically ready for discharge and are no  
16 longer in need of acute care services, but who cannot be  
17 discharged due to various barriers, such as delays in medicaid



1 eligibility determinations, and therefore must remain in the  
2 higher-cost hospital setting. Discharge timeframes for  
3 waitlisted patients range from a few days to over one year.  
4 This situation creates a poor quality of life for the patient,  
5 presents an often insurmountable dilemma for providers and  
6 patients, and causes a serious drain on the financial resources  
7 of acute care hospitals, with ripple effects felt throughout  
8 other health care service sectors.

9 Regulatory and government mandates create barriers to  
10 transferring waitlisted patients. One such barrier is the delay  
11 in completing medicaid eligibility determinations for waitlisted  
12 patients. Senate Concurrent Resolution No. 198, adopted by the  
13 legislature in 2007, requested the Healthcare Association of  
14 Hawaii to conduct a study of patients in acute care hospitals  
15 who are waitlisted for long-term care, and to propose solutions  
16 to the problem. The following is an excerpt from the resulting  
17 final report to the legislature addressing the critical problem  
18 of waitlisted patients and the regulatory barrier of medicaid  
19 eligibility determinations:

20 "[H]awaii State Medicaid eligibility/re-eligibility  
21 determinations:



1           (a)    Presumptive eligibility/re-eligibility:  The waitlist  
2                    task force is very concerned about the amount of time  
3                    it takes to complete the medicaid eligibility and re-  
4                    eligibility process.  Staff within hospitals, nursing  
5                    facilities, etc. report spending a significant amount  
6                    of time assisting families with medicaid applications,  
7                    following up with families to ensure their compliance  
8                    in submitting the required documentation to support  
9                    the application, hand carrying applications to the  
10                   medicaid eligibility office, following up with  
11                   eligibility workers on the status of applications,  
12                   etc.  They report that hand-carried applications are  
13                   often misplaced, the time clock for eligibility does  
14                   not start until the completed application is located  
15                   within the department of human services, family  
16                   members may be non-compliant in completing the  
17                   necessary paperwork since the patient is being cared  
18                   for safely and the facility has no option for  
19                   discharging the patient, and the providers believe  
20                   that they have taken on a beneficiary services role of  
21                   assisting consumers that should be assumed by the  
22                   department of human services.  The medicaid



1 eligibility and re-eligibility application process in  
2 Hawaii is obsolete and unable to handle the current  
3 volume. It relies on a paper-driven system that  
4 receives a high volume of applications per day.  
5 Delays in processing applications in a timely manner  
6 translate to delays in access to care for medicaid  
7 beneficiaries. Acute care hospitals report that in  
8 many cases they have not been able to transfer  
9 patients to long-term care because the delay in making  
10 a determination of medicaid eligibility resulted in  
11 too long a delay in placement in a nursing facility or  
12 home- and community-based setting. By the time the  
13 medicaid eligibility was approved, the bed in the  
14 long-term care facility/setting was taken by someone  
15 else. The direct labor hours involved in following up  
16 on the process negatively impact providers across the  
17 continuum. Many have hired outside contractors to  
18 assist in the application process.

19 (b) Shifting responsibility for consumer assistance in  
20 completing the medicaid application from the provider  
21 of service to the department of human services:

22 Providers have taken on the role of consumer services



1           representatives when patients/families need to submit  
2           applications for medicaid eligibility or to reapply  
3           for eligibility. Often, providers end up spending  
4           hours to days "tracking down" required documentation  
5           to include with the medicaid application and it has  
6           become labor intensive. Many have hired external  
7           organizations to assist in this process. Delays by  
8           patients/families in completing medicaid applications  
9           result in bad debt and charity care incurred by  
10          providers, and they have no recourse but to hold the  
11          family members accountable and/or discharge the  
12          patient due to non-payment; and

13          (c) Non-compliance by family members/guardians in  
14          completing medicaid eligibility/re-eligibility  
15          applications: In other states, such as Nevada,  
16          legislation has been passed to impose financial  
17          penalties on family members/guardians who did not  
18          actively participate in completing/submitting  
19          documentation for medicaid eligibility/re-eligibility  
20          determinations when fraudulent activity was  
21          suspected."



1           The purpose of this Act is to require the department of  
2 human services to provide presumptive eligibility to medicaid  
3 eligible waitlisted patients as has been done for pregnant women  
4 and children in states across the country.

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

8           "§346- Presumptive eligibility under medicaid for  
9 waitlisted patients. (a) The department shall presume that a  
10 waitlisted patient applying for medicaid is eligible for  
11 coverage; provided that the applicant is able to show proof of:  
12           (1) An annual income at or below the maximum level allowed  
13           under federal law or under a waiver approved for  
14           Hawaii under 42 United States Code section 1115, as  
15           applicable;  
16           (2) Verification of assets;  
17           (3) Confirmation of waitlisted status as certified by a  
18           health care provider licensed in Hawaii; and  
19           (4) Meeting the level of care requirement for  
20           institutional or home- and community-based long-term  
21           care as determined by a physician licensed in Hawaii.



1 The department shall notify the applicant and the facility of  
2 the presumptive eligibility on the date of receipt of the  
3 application. The applicant shall submit the remaining documents  
4 necessary to qualify for medicaid coverage within ten business  
5 days after the applicant's receipt of notification of  
6 presumptive eligibility from the department. The department  
7 shall notify the applicant of eligibility within five business  
8 days of receipt of the completed application for medicaid  
9 coverage.

10 Waitlisted patients who are presumptively covered by  
11 medicaid shall be eligible for services and shall be processed  
12 for coverage under the State's qualifying medicaid program.

13 (b) If the waitlisted patient is later determined to be  
14 ineligible for medicaid after receiving services during the  
15 period of presumptive eligibility, the department shall  
16 disenroll the patient and notify the provider and the plan, if  
17 applicable, of disenrollment by facsimile transmission or  
18 electronic mail. The department shall provide reimbursement to  
19 the provider or the plan for the time during which the  
20 waitlisted patient was enrolled."

21 SECTION 3. The department of human services shall submit a  
22 report to the legislature no later than twenty days prior to the



1 convening of the regular session of 2011 of findings and  
2 recommendations regarding the costs and other issues related to  
3 medicaid presumptive eligibility.

4 SECTION 4. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$200,000 or so much  
6 thereof as may be necessary for fiscal year 2009-2010 and the  
7 same sum or so much thereof as may be necessary for fiscal year  
8 2010-2011 to cover the cost of any reimbursements made to  
9 providers or plans for services provided during the time  
10 waitlisted patients are enrolled but eventually determined to be  
11 ineligible.

12 The sums appropriated shall be expended by the department  
13 of human services for the purposes of this Act.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2009.

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**Report Title:**

Medicaid Presumptive Eligibility; Long-Term Care

**Description:**

Requires the department of human services to provide presumptive eligibility for medicaid-eligible patients who have been waitlisted for long-term care.

