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# A BILL FOR AN ACT

RELATING TO HUMAN SERVICES.

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

1           SECTION 1. Section 346-52, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "~~{}~~§346-52~~{}~~ Aged, blind, ~~[and permanently and totally]~~  
4 disabled, and temporarily incapacitated persons; eligibility for  
5 **assistance.** (a) A person shall be eligible for public  
6 assistance who meets the requirements, with the exception of  
7 citizenship, established by the Federal Supplemental Security  
8 Income Program or its successor agency, provided the person is  
9 also determined needy in accordance with state standards.  
10           (b) For purposes of this section:  
11           "Aged" means persons age sixty-five and over.  
12           "Assistance unit" means persons whose needs, income, and  
13 assets are considered in the financial assistance payment.  
14           "Blind" means persons who are visually handicapped as  
15 defined in section 347-2.

1       "Disabled" means persons who meet the disability  
2 requirements established by the Federal Supplemental Social  
3 Security Income Program or its successor agency.

4       "Good cause" shall include, but not be limited to the  
5 unavailability of treatment, personal emergencies, circumstances  
6 that threaten the safety of the person, or the inability of the  
7 person due to the incapacity to follow through with  
8 recommendations of the department or treating physician.

9       "Substantial gainful employment" means at least thirty  
10 hours of work per week.

11       "Temporarily incapacitated" means persons who are unable to  
12 engage in any substantial gainful employment for a period of  
13 sixty days or more because of a determined and certified  
14 physical, mental, or combination of physical and mental  
15 impairment.

16       (c) The following persons without minor dependents who are  
17 determined needy in accordance with state standards shall be  
18 eligible for state-funded public assistance:

19       (1) A person who is aged, blind, or disabled as defined in  
20 this section; or

21       (2) A person aged eighteen years of age but less than  
22 sixty-five years of age who is temporarily

1           incapacitated and who meets the requirements specified  
2           in this section.

3           (d) Temporarily incapacitated persons shall meet the  
4 following requirements:

5           (1) The department shall ask whether the person has a  
6           physical or mental impairment, or both. If the person  
7           claims to have both a physical and mental impairment,  
8           the department shall ask the person to choose whether  
9           the person's primary impairment is physical or mental;

10          (2) Determination and certification of the disability  
11          incapacity shall be as follows:

12          (A) A determination and certification of physical  
13          incapacity shall be made by a licensed physician  
14          designated and paid by the department;

15          (B) A determination and certification of mental  
16          incapacity shall be made by a licensed  
17          psychologist or a licensed physician whose  
18          specialty is in psychiatry, who is designated and  
19          paid by the department;

20          (3) If a determination of physical, mental, or a  
21          combination of a physical and mental incapacity is  
22          made, the person shall accept and pursue appropriate

1           medical treatment from a provider of the person's  
2           choice. The department shall promptly provide the  
3           person with a complete and legible copy of the  
4           recommended appropriate treatment;

5           (4) Any person, to continue to be certified as mentally  
6           incapacitated, physically incapacitated, or both  
7           mentally and physically incapacitated, shall be  
8           reevaluated annually, as provided by this section, and  
9           more frequently, as required by the department; and

10          (5) Failure to pursue appropriate medical treatment shall  
11          result in a loss of eligibility, unless the failure is  
12          due to good cause;

13          (6) Any person determined to be eligible as a temporarily  
14          incapacitated person may be referred to any  
15          appropriate state agency for vocational rehabilitation  
16          services and shall be required to accept the services  
17          as a further condition of eligibility for the receipt  
18          of assistance to temporarily incapacitated persons  
19          without minor dependents under this section,

20          (7) Any person found eligible as a temporarily  
21          incapacitated person may also be required to seek  
22          employment and participate in public work projects, as

1 described in section 346-31, and in public employment  
2 projects, as described in section 346-102; and

3 (8) The failure of any adult member of the assistance unit  
4 to comply with the requirements or conditions of this  
5 section shall exclude the entire assistance unit from  
6 receiving financial assistance for a period not to  
7 exceed twelve months

8 (e) The payment standard or standard of allowance for an  
9 aged, blind, temporarily incapacitated, or disabled person shall  
10 not exceed 62.5 per cent of the standard of need.

11 (f) Within the limitations of this section, the department  
12 shall by rule adopted pursuant to chapter 91, determine:

13 (1) The income eligibility and asset standards;

14 (2) A method for determining assistance amounts;

15 (3) A method to determine that persons are bona fide  
16 residents of the State and have valid social security  
17 numbers; and

18 (4) Other necessary provisions to implement this program."

19 SECTION 2. Section 346-53, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 **"§346-53 Determination of amount of assistance. (a)**

22 [~~This subsection does not apply to general assistance to~~

1 ~~households without minor dependents.]~~ The standard of need  
2 shall equal the poverty level established by the federal  
3 government in 2006, prorated over a twelve-month period based on  
4 family size.

5 The assistance allowance provided shall be based on a  
6 percentage of the standard of need. For exempt households and  
7 households in which all caretaker relatives are minors, living  
8 independently with minor dependents and attending school, the  
9 assistance allowance shall be set no higher than sixty-two and  
10 one-half per cent and no lower than forty-four per cent of the  
11 standard of need. For all other households, the assistance  
12 allowance shall be set no higher than sixty-two and one-half per  
13 cent of the standard of need and set no lower than thirty-four  
14 per cent of the standard of need. The standard of need shall be  
15 determined by dividing the 2006 federal poverty level by twelve  
16 and rounding down the quotient. The remaining quotient shall be  
17 multiplied by the per cent as set by the director by rules  
18 pursuant to chapter 91, and the final product shall be rounded  
19 down to determine the assistance allowance; provided that:

20 (1) The department may increase or reduce the assistance  
21 allowance as determined in this subsection for non-

1 exempt households for the purpose of providing work  
2 incentives or services under part XI;

3 (2) No reduction shall be allowed that jeopardizes  
4 eligibility for or receipt of federal funds;

5 (3) Reductions in the assistance allowance shall be  
6 limited to no more than one per year; and

7 (4) No non-exempt household, which includes an adult who  
8 has received sixty cumulative months of temporary  
9 assistance to needy families with minor dependents,  
10 shall be eligible for an assistance allowance, unless  
11 authorized by federal regulations.

12 ~~[(b) The director shall determine the allowance for  
13 general assistance to households without minor dependents based  
14 upon the total amount appropriated for general assistance to  
15 households without minor dependents, among other relevant  
16 factors.]~~

17 ~~(e)]~~ (b) The director, pursuant to chapter 91, shall  
18 determine the rate of payment for domiciliary care, including  
19 care provided in licensed developmental disabilities domiciliary  
20 homes, community care foster family homes, and certified adult  
21 foster homes, to be provided to recipients who are eligible for  
22 Federal Supplementary Security Income or public assistance, or

1 both. The director shall provide for level of care payment as  
2 follows:

3 (1) Beginning on July 1, 2008, for adult residential care  
4 homes classified as facility type I, licensed  
5 developmental disabilities domiciliary homes as  
6 defined under section 321-15.9, community care foster  
7 family homes as defined under section 346-331, and  
8 certified adult foster homes as defined under section  
9 321-11.2, the state supplemental payment shall not  
10 exceed \$651.90; and

11 (2) Beginning on July 1, 2008, for adult residential care  
12 homes classified as facility type II, the state  
13 supplemental payment shall not exceed \$759.90.

14 If the operator does not provide the quality of care  
15 consistent with the needs of the individual to the satisfaction  
16 of the department, the department may remove the recipient to  
17 another facility.

18 The department shall handle abusive practices under this  
19 section in accordance with chapter 91.

20 Nothing in this subsection shall allow the director to  
21 remove a recipient from an adult residential care home or other  
22 similar institution if the recipient does not desire to be



1 removed and the operator is agreeable to the recipient  
2 remaining, except where the recipient requires a higher level of  
3 care than provided or where the recipient no longer requires any  
4 domiciliary care.

5 [~~d~~] (c) On July 1, 2006, and thereafter, as the  
6 department determines a need, the department shall authorize a  
7 payment, as allowed by federal law, for resident clients  
8 receiving supplemental security income in adult residential care  
9 home type I and type II facilities, licensed developmental  
10 disabilities domiciliary homes as defined under section 321-  
11 15.9, community care foster family homes as defined under  
12 section 346-331, and certified adult foster homes as defined  
13 under section 321-11.2, when state funds appropriated for the  
14 purpose of providing payments under subsection (c) for a  
15 specific fiscal year are not expended fully within a period that  
16 meets the requirements of the department's maintenance of effort  
17 agreement with the Social Security Administration.

18 The payment shall be made with that portion of state funds  
19 identified in this subsection that has not been expended.

20 The department shall determine the rate of payment to  
21 ensure compliance with its maintenance of effort agreement with  
22 the Social Security Administration.

1        [~~(e)~~] (d) The department shall pay rental and utility (to  
2 include gas, electricity, and water only) deposits once only for  
3 any person eligible for financial assistance by the department.  
4 However, under extraordinary circumstances as determined by the  
5 department, an additional rental deposit, utility deposit, or  
6 both, may be granted.

7        [~~(f)~~] (e) Any recipient may petition the department for  
8 additional assistance when the recipient's need is due to  
9 emergencies caused by seismic wave, tsunami, hurricane, volcanic  
10 eruption, typhoon, earthquake, flood, or fire determined by the  
11 director to have caused losses as to require and justify  
12 additional assistance from the State. In addition, any  
13 recipient may petition the department for additional assistance  
14 for the replacement or repair of household appliances. The  
15 additional assistance shall be paid on an emergency basis, as  
16 determined by the department, to meet the cost of replacing or  
17 repairing household appliances. If the cost of repairs of  
18 household appliances is less than one-half the unit cost of the  
19 item, the department shall pay for the cost of repairs. If the  
20 cost of repairs of household appliances is one-half the unit  
21 cost of the item or more, the department shall replace the  
22 household appliance; provided that the replacement cost shall

1 not exceed \$350. For the purposes of this subsection,  
2 "household appliances" means a refrigerator or a range.

3 The department shall establish an emergency fund, not to  
4 exceed one per cent of total financial assistance from state  
5 funds required by this chapter in the previous fiscal year. The  
6 director shall adopt rules pursuant to chapter 91 for  
7 determining in which cases to grant lump sum payments to  
8 recipients petitioning for additional assistance.

9 [~~(g)~~] (f) The department shall include protective child  
10 care payment as a special needs item in the financial assistance  
11 standard for cases of child neglect or abuse requiring placement  
12 of a child in child care. The referral for protective child  
13 care payment shall be from the department's child welfare  
14 program and the rate of payment shall be set by the department.

15 [~~(h)~~] (g) The director shall adopt rules pursuant to  
16 chapter 91 to implement this section."

17 SECTION 3. Section 346-72, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**\$346-72 Applications.** Applications for [~~general~~  
20 ~~assistance to households without minor dependents~~] assistance to  
21 aged, blind, disabled, and temporarily incapacitated households  
22 shall be made by the applicant or by someone acting in the

1 applicant's behalf in the manner, place, and form prescribed by  
2 the department of human services."

3 SECTION 4. Section 346-74, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Persons determined to be eligible under section  
6 ~~[346-71]~~ 346-52 because they have a primary diagnosis of  
7 substance abuse shall have their benefits issued through a  
8 representative payee. The representative payee shall be  
9 designated by the department of health."

10 SECTION 5. Section 346-71, Hawaii Revised Statutes, is  
11 repealed.

12 ~~["§346-71 General assistance to households without minor  
13 dependents. (a) The department of human services is authorized  
14 to administer and provide public assistance to eligible persons  
15 who are disabled, who are not otherwise provided for under this  
16 chapter, and who are unable to provide sufficient support for  
17 themselves or those dependent upon them; provided that such  
18 persons:~~

- 19 ~~(1) Have first been determined ineligible for a comparable  
20 federally funded financial assistance program;  
21 (2) Are bona fide residents of this State; and~~

1       ~~(3) Have furnished to the department a social security~~  
2           ~~account number for each member of the assistance unit~~  
3           ~~or verification that an application was made with the~~  
4           ~~Social Security Administration for a social security~~  
5           ~~account number for each member of the assistance unit.~~

6           ~~Persons who meet the categorical criteria for eligibility,~~  
7       ~~but fail to satisfy income and resource criteria adopted by the~~  
8       ~~department shall not be eligible for general assistance to~~  
9       ~~household without minor dependents. The failure of any adult~~  
10       ~~member of the assistance unit to comply with the requirements or~~  
11       ~~conditions of general assistance to households without minor~~  
12       ~~dependents shall exclude the entire assistance unit from~~  
13       ~~receiving financial assistance. However, when the adult member~~  
14       ~~is disqualified for not meeting the work requirement, the~~  
15       ~~assistance unit shall not be disqualified if the assistance unit~~  
16       ~~was formed after the failure to meet the work requirement~~  
17       ~~occurred. "Assistance unit" as the term is used in this section~~  
18       ~~means persons whose needs, income, and assets are considered in~~  
19       ~~the financial assistance payment and their dependents.~~

20           ~~For purposes of determining whether persons seeking~~  
21       ~~assistance are bona fide residents of this State, the department~~

1 ~~of human services shall consider, but is not limited to~~  
2 ~~considering, the following factors:~~

- 3 ~~(1) Enrollment and receipt of welfare benefits from~~  
4 ~~another jurisdiction;~~
- 5 ~~(2) Physical presence in the State;~~
- 6 ~~(3) Maintenance of a place of residence in the State;~~
- 7 ~~(4) The availability of furnishings and household and~~  
8 ~~personal effects sufficient to lead a reasonable~~  
9 ~~person to conclude that the place of residence is more~~  
10 ~~than a public accommodation;~~
- 11 ~~(5) Qualification as to residence for purposes of voting~~  
12 ~~in the State;~~
- 13 ~~(6) Change in vehicle operation license;~~
- 14 ~~(7) Vehicle registration;~~
- 15 ~~(8) Enrollment of children in local schools; and~~
- 16 ~~(9) Bank accounts in this State or any other jurisdiction.~~

17 ~~(b) A person between eighteen and sixty five years of age~~  
18 ~~with a disability shall be eligible for general assistance to~~  
19 ~~households without minor dependents if the person:~~

- 20 ~~(1) Is determined to be needy in accordance with standards~~  
21 ~~established by this chapter and the rules adopted~~  
22 ~~under subsection (c);~~

- 1       ~~(2) Is unable to meet the disability requirements~~  
2           ~~established by the federal Supplemental Security~~  
3           ~~Income Program or its successor agency; and~~
- 4       ~~(3) Is unable to engage in any substantial gainful~~  
5           ~~employment because of a determined and certified~~  
6           ~~physical, mental, or combination of physical and~~  
7           ~~mental disability. Upon application, the department~~  
8           ~~shall ask the person whether the person has a physical~~  
9           ~~or mental disability, or both. If the person claims~~  
10          ~~to have both a physical and mental disability, the~~  
11          ~~department shall ask the person to choose whether the~~  
12          ~~person's primary disability is physical or mental.~~  
13          ~~Determination and certification of the disability~~  
14          ~~shall be as follows:~~
- 15       ~~(A) A determination and certification of physical~~  
16           ~~disability shall be made by a board of licensed~~  
17           ~~physicians designated and paid by the department.~~  
18           ~~Meetings of this board shall not be subject to~~  
19           ~~part I of chapter 92;~~
- 20       ~~(B) A determination and certification of mental~~  
21           ~~disability shall be made by a board of licensed~~  
22           ~~psychologists or licensed physicians whose~~

1 ~~specialty is in psychiatry. This board shall be~~  
2 ~~designated and paid by the department. Meetings~~  
3 ~~of this board shall not be subject to part I of~~  
4 ~~chapter 92;~~

5 ~~(C) If a determination and certification is made that~~  
6 ~~the applicant does not have a physical, mental,~~  
7 ~~or combination of a physical and mental~~  
8 ~~disability, prior to a denial of any claim, the~~  
9 ~~department shall provide the applicant with an~~  
10 ~~initial denial notice that gives the applicant at~~  
11 ~~least ten calendar days to provide additional~~  
12 ~~medical evidence. The notice shall refer the~~  
13 ~~applicant to free legal services for assistance~~  
14 ~~and permit the applicant to request extensions of~~  
15 ~~time, if necessary;~~

16 ~~(D) If a determination of physical, mental, or~~  
17 ~~combination of a physical and mental disability~~  
18 ~~is made, the person shall accept and pursue~~  
19 ~~appropriate medical treatment from a provider of~~  
20 ~~the person's choice. The department shall~~  
21 ~~promptly provide the person with a complete and~~



1 ~~legible copy of the recommended appropriate~~  
2 ~~treatment;~~

3 ~~(E) Any person, to continue to be certified as~~  
4 ~~mentally disabled, physically disabled, or both~~  
5 ~~mentally and physically disabled, shall be~~  
6 ~~reevaluated annually, as provided by this~~  
7 ~~section, and more frequently, as required by the~~  
8 ~~department; and~~

9 ~~(F) Failure to pursue appropriate medical treatment~~  
10 ~~shall result in a loss of eligibility, unless the~~  
11 ~~failure is due to good cause. Good cause shall~~  
12 ~~include but not be limited to:~~

13 ~~(i) Treatment is unavailable;~~

14 ~~(ii) Personal emergencies; and~~

15 ~~(iii) Circumstances that threaten the safety of~~  
16 ~~the patient.~~

17 ~~The department shall adopt rules in accordance with chapter 91~~  
18 ~~to define "good cause", as used in subparagraph (F), in order to~~  
19 ~~determine when treatment is unavailable, what constitutes a~~  
20 ~~personal emergency, what circumstances may threaten the safety~~  
21 ~~of a patient, and other factors that may constitute good cause.~~

22 ~~As used in this subsection:~~

1       ~~"Substantial gainful employment" means at least thirty~~  
2 ~~hours of work per week.~~

3       ~~"With a disability" or "having a disability" means a~~  
4 ~~disability that extends for a period of over sixty days.~~

5       ~~Any person determined to be eligible under this subsection~~  
6 ~~may be referred to any appropriate state agency for vocational~~  
7 ~~rehabilitation services and shall be required to accept the~~  
8 ~~services as a further condition of eligibility for the receipt~~  
9 ~~of general assistance to households without minor dependents~~  
10 ~~under this section. An assistance unit shall be determined~~  
11 ~~ineligible for general assistance to households without minor~~  
12 ~~dependents if any adult member of the assistance unit fails to~~  
13 ~~cooperate with any appropriate state agency for vocational~~  
14 ~~rehabilitation services after being referred for services. Any~~  
15 ~~person found eligible under this subsection may also be required~~  
16 ~~to seek employment and participate in public work projects, as~~  
17 ~~described in section 346-31, and in public employment projects,~~  
18 ~~as described in section 346-102.~~

19       ~~(c) Applicants and recipients shall be required to satisfy~~  
20 ~~all applicable provisions of this section. Recipients~~  
21 ~~disqualified for failure to comply with any of the requirements~~  
22 ~~under this section shall be excluded from general assistance to~~

1 ~~households without minor dependents for a period not to exceed~~  
2 ~~twelve months.~~

3 ~~(d) The allowance for general assistance to households~~  
4 ~~without minor dependents shall not exceed sixty-two and one-half~~  
5 ~~per cent of the standard of need.~~

6 ~~(e) Within the limitations of this section, the department~~  
7 ~~shall by rules adopted pursuant to chapter 91, determine:~~

8 ~~(1) The allowance for general assistance to households~~  
9 ~~without minor dependents based upon the total amount~~  
10 ~~appropriated for general assistance to households~~  
11 ~~without minor dependents;~~

12 ~~(2) A method for determining assistance amounts; and~~

13 ~~(3) Other necessary provisions to implement general~~  
14 ~~assistance to households without minor dependents." ]~~

15 SECTION 6. The director of human services, with the  
16 approval of the governor, may authorize the expenditure of funds  
17 for public assistance through the transfer of moneys from other  
18 programs under the purview of the director of human services.

19 SECTION 7. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2050.

**Report Title:**

Human Services

**Description:**

Establishes requirements for aged, blind, temporarily incapacitated, and disabled persons eligibility for assistance.  
(SD1)