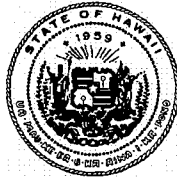


***LATE***

**HB 1098**

LINDA LINGLE  
GOVERNOR



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STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

**LATE**

April 6, 2009

**MEMORANDUM**

TO: The Honorable Donna Mercado Kim, Chair  
Senate Committee on Ways and Means

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 1098, H.D. 2, S.D.1 - RELATING TO GENERAL  
ASSISTANCE**

Hearing: Monday, April 6, 2009; 9:30 p.m.  
Conference Room 211, State Capitol

**PURPOSE:** The purpose of H.B. 1098, H.D. 2, S.D.1, is to establish a twenty-four month time limit to households without minor dependents with appropriate exceptions. This bill requires the Department of Human Services to refer general assistance recipients to the aged, blind, and permanently and totally disabled program under specified conditions. It also converts general assistance into an entitlement program.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) respectfully opposes the amendments made in H.D. 1 of this Administration-sponsored bill. The general assistance program is meant to provide cash benefits for food, clothing, shelter, and other essentials to individuals, ages 18 through 64 without minor dependents, who are temporarily disabled and who do not qualify for Social Security benefits. Assistance is provided while the temporarily disabled individual

recovers sufficiently to return to work or, if permanently disabled, is determined to be qualified as eligible for Federal Social Security benefits.

DHS recommends a twelve-month time limit for general assistance recipients, with the following exceptions:

- 1) The twelve-month time limit can be extended pending determination of the general assistance recipient's eligibility for the Federal Supplemental Security Income Program or its successor program and until all appeals with the Social Security Administration have been exhausted; and
- 2) A one-time extension of up to twelve consecutive months, for a total of not more than twenty-four months, shall be allowed for those general assistance recipients whose only disability is any substance abuse addiction and who remain compliant with the Department's recommended treatment program, including random drug testing.

It is expected that within our proposed twelve-month or twenty-four month time limits, the temporarily disabled client will be able to return to work or be qualified for federal Social Security benefits.

The general assistance program caseload has been increasing. The increased caseload is the result of not only more individuals receiving general assistance but also because those who are receiving assistance are on longer because the Federal eligibility process for the Federal Social Security benefits is taking longer. Also, the assistance payment for general assistance increased from \$418 monthly to \$469 monthly to be comparable with the assistance being received in the other financial assistance programs. For this fiscal year 2009, the Department, after exhausting all means to continue to provide benefits, will have to reduce

assistance payments to \$234 monthly for the last three months of the fiscal year to be able to provide recipients some cash assistance through June 30, 2009.

These time limits will allow the Department to provide the maximum amount of assistance to clients while they are in their recovery or transition period.

The Department also has concerns about mandating referrals of general assistance recipients who are not 65 to the Aged, Blind and Permanently and Totally Disabled program (AABD) because the eligibility requirements of the general assistance and AABD program are different which may cause confusion as to who can be referred and qualified.

A final recommendation is that §346-71(b)(3)(C) on page 11, lines 5 through 15, be deleted as the Department's new evaluation process will preclude the need for this additional notice and the corresponding delays in processing the denial because the applicant does not have a disability.

In closing, the Department has been and will continue to work closely with the Financial Assistance Advisory Council (FAAC) toward a combined GA and AABD program but we need the opportunity to gather and analyze relevant data to develop a combined program. The Department hopes to submit a proposal, supported by the FAAC, during the 2010 Legislative Session which will ensure that the requirements for both the AABD and the GA programs are clearly defined, compatible, reasonable and sustainable in combining these two important programs.

Thank you for the opportunity to provide comments on this bill.

**LATE**

George J. Zweibel, Esq.  
President, Board of Directors

M. Nalani Fujimori, Esq.  
Interim Executive Director

**TESTIFYING IN SUPPORT, REQUESTING AMENDMENTS TO  
HB1098 HD2 SD1 - RELATING TO GENERAL ASSISTANCE**

April 6, 2009 at 9:30 a.m.

Committee on Ways and Means

The Legal Aid Society of Hawaii hereby provides testimony in support, but requesting amendments to the Senate Committee on Human Services on HB1098 HD2 SD1 – Relating to General Assistance (“GA”).

The Legal Aid Society of Hawaii provides free legal services to the low-income population of the State of Hawaii. We provided civil legal assistance to those in need through nine offices located in Lihue, Waiānae, Honolulu, Kaneohe, Kaunakakai, Lanai City, Wailuku, Kona and Hilo. Over the years we have provided leadership around public benefits issues and on an annual basis update our public benefits manual and provide a two-day training on public benefits.

As written, this bill would (1) put a twenty-four month time limit on GA recipients; (2) require DHS to consider an applicant for the Aid to Aged Blind and Permanently and Totally Disabled program (“AABD”) after twelve months or upon turning 65; and (3) convert the GA program into an entitlement program. We support this bill, although would ask for amendments to allow for good cause exceptions to not counting months toward the time limits and ask for provisions to protect those actively seeking substance abuse treatment.

**GOOD CAUSE EXCEPTIONS TO NOT COUNTING MONTHS**

GA is for disabled individuals and by its nature these individuals are mentally and physically disabled. While filing for social security and ensuring that they have an application pending should be a relatively easy requirement to meet, the disabilities faced by many of these recipients sometimes make it difficult for them to initially pursue and application or maintain the pursuant of this application. In addition, recent cut backs to mental health community programs now limit the amount of hours available for mental health case workers to assist recipients in making meetings, gathering information and following through with applications.

As such, we are also requesting amendments to this bill which would allow for a good cause exception to the proposed GA time limit.

**PROVISIONS TO PROTECTION THOSE ACTIVELY SEEKING SUBSTANCE ABUSE  
TREATMENT**

One of the groups that general assistance provides funding to are those actively seeking substance abuse treatment. As former clients spoke on last night’s news regarding the cuts to the General Assistance program, GA payments have helped them receive treatment, get college degrees and come back to help others in the same situation.

Substance abuse is not something that can be cured in twelve months, for some the period of recovery is much longer and relapse is a common part of the substance abuse recovery process. As such, we request amendments to allow an exemption from the time limit for those actively seeking substance abuse treatment.

April 5, 2009  
Page 2

We have also provided a new SD2 which incorporates and highlights proposed changes.

Thank you for the opportunity to testify.

Sincerely,

M. Nalani Fujimori  
Interim Executive Director

**LATE**

General Assistance

**Description:**

Places a twelve-month limit on general assistance to households without minor dependents with appropriate exceptions.

HOUSE OF REPRESENTATIVES  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

H.B. NO. 1098  
SD 2

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A BILL FOR AN ACT

RELATING TO GENERAL ASSISTANCE.

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

SECTION 1. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Have first been determined ineligible for a comparable federally funded financial assistance program;
- (2) Are bona fide residents of this State; and
- (3) Have furnished to the department a social security account number for each member of the assistance unit or verification that an application was made with the Social Security Administration for a social security account number for each member of the assistance unit.

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

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of human services shall consider, but is not limited to considering, the following factors:

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

(b) A person between eighteen and sixty-five years of age with a disability shall be eligible for general assistance to households without minor dependents for a period not to exceed twenty four months unless good cause exists if the person:

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

- (2) Is unable to meet the disability requirements established by the federal Supplemental Security Income Program or its successor agency; and
- (3) Is unable to engage in any substantial gainful employment because of a determined and certified physical, mental, or combination of physical and mental disability. Upon application, the department shall ask the person whether the person has a physical or mental disability, or both. If the person claims to have both a physical and mental disability, the department shall ask the person to choose whether the person's primary disability is physical or mental. Determination and certification of the disability shall be as follows:
  - (A) A determination and certification of physical disability shall be made by a board of licensed physicians designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;
  - (B) A determination and certification of mental disability shall be made by a board of licensed psychologists or licensed physicians whose specialty is in psychiatry. This board shall be designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;
  - (C) If a determination and certification is made that the applicant does not have a physical, mental, or combination of a physical and mental disability, prior to a denial of any claim, the department shall provide the applicant with an initial denial notice that gives the applicant at least ten calendar days to provide additional medical evidence. The notice shall refer the applicant to free legal services for assistance and permit the applicant to request extensions of time, if necessary;
  - (D) If a determination of physical, mental, or combination of a physical and mental disability is made, the person shall accept and pursue appropriate medical treatment from a provider of the person's choice. The department shall promptly provide the person with a complete and legible copy of the recommended appropriate treatment;
  - (E) Any person, to continue to be certified as mentally disabled, physically disabled, or both mentally and physically disabled, shall be reevaluated annually, as provided by this section, and more frequently, as required by the department provided that after twelve months or upon turning 65, the department refers the person for eligibility under the aged blind and permanently and totally disabled program; and
  - (F) Failure to pursue appropriate medical treatment shall result in a loss of eligibility, unless the failure is due to good cause. ~~Good cause shall include but not be limited to:~~

~~(i) Treatment is unavailable;~~  
~~(ii) Personal emergencies; and~~  
~~(iii) Circumstances that threaten the safety of the patient.~~  
The department shall adopt rules in accordance with chapter 91 to define "good cause", as used in subparagraph (F), in order to determine when treatment is unavailable, what constitutes a personal emergency, what circumstances may threaten the safety of a patient, and other factors that may constitute good cause.

As used in this subsection:

"Good cause" shall include, but not be limited to:

- (i) Treatment is unavailable;
- (ii) Personal emergencies;
- (iii) Circumstances that threaten the safety of the patient; and
- (iv) Disability affects the ability of the patient to follow-through with recommendations.

The department shall adopt rules in accordance with chapter 91 to define "good cause," as used above, in order to determine when treatment is unavailable, what constitutes a personal emergency, what circumstances may threaten the safety of a patient, what diagnosed disability affects the ability of the patient to follow-through with recommendations, and other factors that may constitute good cause.

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

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

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition



of eligibility for the receipt of general assistance to households without minor dependents under this section. An assistance unit shall be determined ineligible for general assistance to households without minor dependents if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment and participate in public work projects, as described in section 346-31, and in public employment projects, as described in section 346-102.

(c) Applicants and recipients shall be required to satisfy all applicable provisions of this section. Recipients disqualified for failure to comply with any of the requirements under this section shall be excluded from general assistance to households without minor dependents for a period not to exceed twelve months.

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

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

- (1) The allowance for general assistance to households without minor dependents based upon the total amount appropriated for general assistance to households without minor dependents;
- (2) A method for determining assistance amounts; and
- (3) Other necessary provisions to implement general assistance to households without minor dependents.

(f) Any month in which a person receives assistance pending an eligibility determination for the federal Supplemental Security Income Program or a successor program or in which the person is actively participating in substance abuse treatment shall not be counted towards the twelve-month limit."

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

a) ~~This subsection does not apply to general assistance to households without minor dependents.~~ The standard of need shall equal the poverty level established by the federal government in 2006, prorated over a twelve-month period based on family size.

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

- (1) The department may increase or reduce the assistance allowance as determined in this subsection for non-exempt households for the purpose of providing work incentives or services under part XI;
- (2) No reduction shall be allowed that jeopardizes eligibility for or receipt of federal funds;
- (3) Reductions in the assistance allowance shall be limited to no more than one per year; and
- (4) No non-exempt household, which includes an adult who has received sixty cumulative months of temporary assistance to needy families with minor dependents, shall be eligible for an assistance allowance, unless authorized by federal regulations.

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

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2009.