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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 PART I

2 SECTION 1. The State's worsening economy has impacted many  
3 state programs, including those overseen by the department of  
4 human services which serves the neediest populations in Hawaii.  
5 A continued bleak economic outlook jeopardizes the services  
6 provided by the department of human services. Families closest  
7 to the poverty line will suffer the most with funding for basic  
8 necessities being eliminated. The legislature finds that it is  
9 important to reduce costs where possible in order to restore  
10 many human services programs that are vital to our communities.

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

14 "§346- QUEST managed care plans. (a) In contracting  
15 with managed-care organizations for the provision of medicaid  
16 benefits under the QUEST program, the department shall ensure:



- 1        (1) That each managed-care health plan includes provisions  
2        for a co-payment, which shall be not less than \$5 and  
3        not more than \$20 for each:
- 4        (A) Office visit;  
5        (B) Filling or re-filling of prescription drugs;  
6        (C) Outpatient service; and  
7        (D) Emergency-room visit;
- 8        provided that these co-payments shall not be applied  
9        to inpatient admission or services;
- 10       (2) That proposed co-payment schedules in each managed-  
11       care health plan are reviewed prior to implementation  
12       by the managed-care organization;
- 13       (3) That a formulary for prescription-drug coverage is  
14       developed and mandated for use by each managed-care  
15       health plan; and
- 16       (4) That the medical necessity provision, pursuant to  
17       section 432E-1.4, is applied with respect to health  
18       care coverage provided under each managed-care health  
19       plan.
- 20       (b) Subsection (a) shall apply after January 1, 2011, and  
21       shall be restricted to the provision of medical benefits to non-  
22       pregnant adults over eighteen years of age.





1 primary insurer. When the department is the secondary insurer,  
2 the department and its contracted health plans shall be  
3 responsible for the secondary insurer's share of any  
4 psychotropic medication covered by the primary insurer.

5 ~~[-(a)]~~ (b) The department and its contracted health plans  
6 shall not impose any restriction or limitation on the coverage  
7 for, or a recipient's access to, [psychotropic medication;  
8 provided that the psychotropic medication shall be prescribed by  
9 a psychiatrist, physician, or an advanced practice registered  
10 nurse with prescriptive authority under chapter 457, duly  
11 licensed in the State.] antipsychotic medication.

12 (c) The department and its contracted health plans shall  
13 not impose any restriction or limitation on the coverage for, or  
14 a recipient's access to, antidepressant medication other than:

15 (1) Requiring that an individual must have two failed  
16 attempts on a generic antidepressant medication to  
17 receive coverage for all new brand antidepressant  
18 prescriptions; and

19 (2) Requiring that if an individual does not have two  
20 failed attempts on a generic antidepressant  
21 medication, that individual shall receive coverage for  
22 a brand-name antidepressant medication with prior



1 authorization by the prescriber; provided that one  
2 three-day supply of the brand-name antidepressant  
3 medication shall be covered if requested by the  
4 prescriber while a prior authorization request  
5 submitted by that prescriber is pending.

6 For purposes of this subsection, a "failed attempt" means  
7 that the prescribed generic antidepressant at maximum approved  
8 dosage is not effective in treating the individual or the  
9 individual's compliance is compromised due to the side effects  
10 caused by the medication.

11 (d) The department and its contracted health plans shall  
12 not require any individual that is stable on a brand-name  
13 antidepressant as of the effective date of Act , Session Laws  
14 of Hawaii 2010, to transfer to a different antidepressant,  
15 generic or brand-name, unless the individual becomes unstable  
16 and requires the medication to be altered.

17 (e) The department and its contracted health plans shall  
18 not require any individual that is stable on a brand-name anti-  
19 anxiety medication as of the effective date of Act , Session  
20 Laws of Hawaii 2010, to transfer to a different anti-anxiety  
21 medication, generic or brand-name, unless the individual becomes  
22 unstable and requires the medication to be altered.



1        (f) Measures to ensure patient safety shall not constitute  
2 a restriction or limitation on the coverage for, or a  
3 recipient's access to, a medication under subsections (b) and  
4 (c).

5        ~~[-(e)]~~ (g) The department shall report to the legislature  
6 no later than twenty days before the convening of each regular  
7 session on:

8            (1) The number of brand-name and generic prescriptions  
9            written pursuant to this section; and

10           (2) ~~The [cost and impact of psychiatrists, physicians, or~~  
11 ~~advanced practice nurses prescribing medications,~~  
12 ~~pursuant to this section, that are not part of the~~  
13 ~~existing formulary; and~~

14           ~~(3) The overall use of psychotropic medication under~~  
15 ~~chapter 346.]~~ amount expended on brand-name and  
16 generic prescriptions written each fiscal year  
17 pursuant to this chapter.

18        ~~[-(e)]~~ (h) All psychotropic medications covered by this  
19 section shall be prescribed by a psychiatrist, a physician, or  
20 an advanced practice registered nurse with prescriptive  
21 authority under chapter 457 and duly licensed in the State.

22        ~~[-(e)]~~ (i) As used in this section[, "psychotropic"]:



1       "Anti-anxiety medication" means those medications included  
2 in the United States Pharmacopeia's anxiolytic therapeutic  
3 category.

4       "Antidepressant medication" means those medications  
5 included in the United States Pharmacopeia's antidepressant  
6 therapeutic category.

7       "Antipsychotic medication" means those medications included  
8 in the United States Pharmacopeia's antipsychotic therapeutic  
9 category.

10       "Psychotropic medication" means only those agents approved  
11 by the United States Food and Drug Administration for the  
12 treatment of mental or emotional disorders."

13    PART III

14       SECTION 5. The department of human services currently  
15 provides certain death benefits for individuals who were medical  
16 assistance or financial assistance recipients at the time of  
17 death. The legislature finds that it is appropriate for the  
18 department of human services to issue a death benefit amount  
19 equivalent to the Social Security Administration's lump-sum  
20 death benefit if the deceased individual is ineligible for the  
21 Social Security Administration's lump-sum death benefit, and to



1 bear a larger cost for certain services for unclaimed corpses,  
2 if necessary.

3 SECTION 6. Section 346-15, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~§346-15 [Burial of]~~ Death benefits for deceased medical  
6 or financial assistance recipients [or] and disposition of  
7 unclaimed corpses. (a) Where the decedent was a medical  
8 assistance or financial assistance recipient at the time of  
9 death and is ineligible for the social security lump-sum death  
10 benefit, [The] the department of human services may [bear the  
11 cost of the burial of deceased medical or financial assistance  
12 recipients or unclaimed corpses. Burial services include the  
13 customary mortuary, crematory, cemetery, and other services  
14 essential in providing a dignified burial.] issue a lump-sum  
15 death benefit in an amount equal to the Social Security  
16 Administration's lump-sum death benefit for the year in which  
17 the recipient died.

18 (b) ~~[The department may pay for mortuary and crematory~~  
19 ~~services to be furnished by any licensed provider of mortuary~~  
20 ~~and crematory services. Mortuary and crematory payments shall~~  
21 ~~be made to the extent of cost, or in the sum of \$400, whichever~~  
22 ~~is less.] The department may authorize and bear the cost of the~~





1 mortuary and crematory services for unclaimed corpses furnished  
2 by any licensed provider of mortuary or crematory services.

3 Payments for mortuary and crematory services shall be made to  
4 the extent of the cost, or in the sum of \$800 in total,  
5 whichever is less, for each unclaimed corpse.

6 ~~(c) [The department may pay for cemetery services, to be~~  
7 ~~furnished by any licensed provider of cemetery services.]~~

8 ~~Cemetery payments shall be made to the extent of cost, or in the~~  
9 ~~sum of \$400, whichever is less.~~

10 ~~(d) In cases where the decedent is survived by relatives,~~  
11 ~~the relatives shall be permitted to make their own arrangements~~  
12 ~~for the burial or cremation of their deceased relative.~~

13 ~~(e) The person submitting an application for funeral~~  
14 ~~payments under the department's funeral payment program,] Any~~  
15 person submitting an application for the lump-sum death benefit  
16 described in subsection (a) on behalf of a deceased medical or  
17 financial assistance recipient, shall have sixty days from the  
18 date of the death of the deceased to submit the application [for  
19 funeral payments] to the department. [This subsection shall not  
20 apply to applications submitted by the respective county medical  
21 examiner or coroner on behalf of unclaimed corpses.



1       ~~(f) All unclaimed corpses shall be cremated. The~~  
2       ~~department of human services shall authorize the cremation of~~  
3       ~~unclaimed corpses.]~~

4       [~~(g)~~] (d) A person or public or private agency, including  
5       the department of human services, shall not be liable for any  
6       damage or subject to criminal prosecution for any act done  
7       pursuant to and in compliance with this section.

8       [~~(h)~~] (e) For the purposes of this section, "unclaimed  
9       corpse" means the remains of any deceased person for whom no one  
10       has assumed responsibility for disposition of the body within  
11       five working days, excluding weekends, from the date of death  
12       and about whom the department and the respective county medical  
13       examiner or coroner have no actual knowledge of a legally  
14       responsible party.

15       [~~(i)~~] (f) The department shall adopt rules pursuant to  
16       chapter 91 for purposes of administering and implementing this  
17       section."

18       SECTION 7. The department of human services is prohibited  
19       for expending any moneys from the medicaid budget on purposes or  
20       programs that have not been specifically authorized by the  
21       legislature. Moneys appropriated for medicaid programs may not  
22       be transferred, shifted, moved, changed, or spent on any



1 programs other than programs directly related to medicaid or  
2 programs specifically appropriated for by the legislature.

3 SECTION 8. If any provision of this Act, or the  
4 application thereof to any person or circumstance is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act, which can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 9. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect on July 1, 2050.

12



**Report Title:**

Department of Human Services; QUEST

**Description:**

Requires the department of human services to include certain provisions in each contract with managed care organizations for the provision of Medicaid benefits under QUEST; makes amendments to the QUEST psychotropic benefits; provides a state lump-sum death benefit in an amount equal to the Social Security Administration's lump-sum death benefit for deceased medical or financial assistance recipients who are ineligible for the Social Security Administration benefit. Prohibits the DHS from any expenditures appropriated for Medicaid on any programs not specifically related to Medicaid or not authorized by the Legislature. Effective July 1, 2050. (SD1)

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