

JAN 23 2009

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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. Hawaii's health care system consists of a  
2 myriad of services that must be coordinated and integrated to  
3 ensure access to quality care at the appropriate level for all  
4 of Hawaii's residents. A single user of health care often  
5 accesses different providers that deliver different products and  
6 services, and may transition from one level of care to another  
7 over a period of time.

8           Acute care hospitals deliver care to the most seriously ill  
9 patients. As such, the cost of acute hospital care is very high  
10 due to high staffing costs, the high costs of technology that  
11 permeate hospitals to pay for equipment and supplies, and the  
12 high costs of medication, regulatory, and quality requirements.  
13 Patients who receive care at hospitals and recover enough of  
14 their health so that they no longer require hospitalization, but  
15 are still in need of services, should be transferred out of the  
16 hospital to a provider that can appropriately and safely care  
17 for their needs. Such a transfer supports an improved quality



1 of life for the patient and sustains the integrity of the acute  
2 care system by creating availability for others who may require  
3 hospitalization. This balanced flow of patient movement matches  
4 the appropriate provider to the needs of the patient. In doing  
5 so, it better manages the financing of health care.

6 The determination of an appropriate level of care is based  
7 on the patient's condition and input from a multi-disciplinary  
8 care team. The provision of long-term care, either in a  
9 facility or in a home- and community-based setting, is far less  
10 costly than hospital care.

11 Unfortunately, due to unique and unusual circumstances,  
12 Hawaii has a shortage of beds in nursing facilities relative to  
13 its population. Most of Hawaii's long-term care facilities,  
14 including skilled nursing facilities, assisted living  
15 facilities, adult residential care homes, and foster family  
16 homes, are full nearly all of the time. Placement in long-term  
17 care is especially difficult when a patient has a medically  
18 complex condition that demands resources that are not available  
19 at many long-term care facilities in Hawaii. As a result, many  
20 acute care hospital patients who are ready for long-term care  
21 cannot be discharged and must wait in the acute care hospital  
22 bed until appropriate space becomes available.



1           The shortage of long-term care beds is an undesirable  
2 situation from three perspectives. First, the quality of life  
3 of the patient obliged to remain in an acute care hospital is  
4 diminished. Second, a patient in an acute care hospital who is  
5 on a waitlist for long-term care occupies a bed that may be  
6 needed by someone else with an acute illness or injury. Lastly,  
7 hospital care is very expensive, so the waitlisted patient  
8 contributes to higher costs in an acute care hospital.

9           Hawaii's medicaid program can be modified to facilitate the  
10 flow of patients from acute care hospitals to long-term care  
11 facilities. When a medicaid-eligible patient is treated by an  
12 acute care hospital, medicaid pays a rate based upon the level  
13 of care needed by the patient. When the patient is well enough  
14 to be transferred to long-term care, the medicaid payment is  
15 reduced to a rate that is twenty to thirty per cent of the  
16 actual cost of acute care hospitalization. If the hospital is  
17 not able to transfer the patient to long-term care, the hospital  
18 must bear the financial burden of the reduced medicaid payments.  
19 In addition, the inability to transfer a patient who is deemed  
20 ready for discharge by a physician means that the patient on a  
21 waitlist utilizes an acute care bed that may be needed by other,



1 more acutely ill patients. Thus, there is an opportunity cost  
2 to the hospital and the patients.

3 At any particular time, a total of about two hundred  
4 patients in Hawaii's hospitals are waiting to be transferred to  
5 long-term care. Patients with certain conditions have been on a  
6 waitlist for weeks, months, or even years. The total loss to  
7 hospitals due to patients on a waitlist was estimated to be  
8 \$73,000,000 in 2008.

9 A significant part of that loss is due to underpayment by  
10 medicaid. The underpayment is unfair to acute care hospitals  
11 because medicaid is, in effect, a public-private partnership.  
12 The public sector provides the funding, and the private sector  
13 provides the services. Unfortunately, in the majority of  
14 situations, medicaid reimbursements seldom cover the actual cost  
15 of the services provided. As a result of the underpayment,  
16 acute care hospitals and long-term care facilities are weakened  
17 financially, and the stability of Hawaii's entire health care  
18 system is compromised.

19 In the past, acute care hospitals were able to absorb  
20 medicaid losses since payments from commercial and other payers  
21 helped to offset the under-funded costs of care for medicaid  
22 patients. Over time, the cost of healthcare has increased at a



1 faster rate than increases in payments from all payers. In  
2 addition, significant enhancements in medical technology over  
3 the past several years have placed a greater expectation on  
4 acute care hospitals to invest in medical equipment and  
5 information technology. As a result, acute care hospitals are  
6 no longer able to cover the underpaid cost of caring for  
7 medicaid patients and adequately invest in medical technology.  
8 The result is that many acute care hospitals are on the verge of  
9 financial failure. For example, Kahuku hospital would have  
10 ceased operations due to bankruptcy if it were not annexed by  
11 the Hawaii health systems corporation, which is subsidized by  
12 the State. One of the major reasons given for Kahuku hospital's  
13 financial troubles was underpayment by medicaid.

14 In addition, medicaid payments for long-term care must be  
15 addressed, with payments for individuals with medically complex  
16 conditions, such as bariatric patients and severely obese  
17 patients, needing immediate attention. These payments should be  
18 cost-based since the current system of acuity-based  
19 reimbursement does not effectively address these types of  
20 patients.

21 The purpose of this Act is to provide fair compensation to  
22 acute care hospitals for the service they provide to medicaid



1 patients who have been treated for acute illnesses and injuries  
2 and who have recovered sufficiently so that they may be  
3 transferred to long-term care, but for whom long-term care is  
4 not available. In addition, this Act provides fair compensation  
5 to long-term care facilities for patients in acute hospitals  
6 with medically complex conditions when their level of care  
7 changes from acute to long-term care.

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

11 "§346- Medicaid reimbursements. (a) Medicaid  
12 reimbursements to hospitals for patients occupying acute-  
13 licensed beds who are on a waitlist for long-term care shall be  
14 equal to the acute medical services payment rate.

15 (b) Medicaid reimbursements to facilities with long-term  
16 care beds for patients with medically complex conditions who,  
17 prior to admission to the facility were receiving acute care  
18 services in an acute care hospital, shall be equal to the state  
19 reimbursement rate for subacute care.

20 (c) As used in this section:

21 "Medically complex condition" means a combination of  
22 chronic physical conditions, illnesses, or other medically



1 related factors that significantly impact an individual's health  
2 and manner of living and cause reliance upon technological,  
3 pharmacological, and other therapeutic interventions to sustain  
4 life.

5 "Subacute care" means a level of care that is needed by a  
6 patient not requiring acute care, but who needs more intensive  
7 skilled nursing care than is provided to the majority of  
8 patients in a skilled nursing facility."

9 SECTION 3. Section 346D-1.5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§346D-1.5 Medicaid reimbursement equity.** Not later than  
12 July 1, 2008, there shall be no distinction between hospital-  
13 based and nonhospital-based reimbursement rates for  
14 institutionalized long-term care under medicaid. Reimbursement  
15 for institutionalized intermediate care facilities and  
16 institutionalized skilled nursing facilities shall be based  
17 solely on the level of care rather than the location. This  
18 section shall not apply to critical access hospitals[-] or to  
19 reimbursements made in accordance with section 346- ."

20 SECTION 4. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$6,200,000 or so much



1 thereof as may be necessary for fiscal year 2009-2010 for  
2 increased medicaid reimbursement in accordance with this Act.

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

5 SECTION 5. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2009.  
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INTRODUCED BY:

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**Report Title:**

Medicaid; Long-Term Care Reimbursements; Appropriation

**Description:**

Establishes reimbursement guidelines for medicaid to hospitals and facilities with long-term care beds. Makes appropriation.

