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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 who are waitlisted for  
3 long-term care or other types of care receive appropriate  
4 medical care by authorizing the department of human services to  
5 apply medicaid presumptive eligibility to qualified waitlisted  
6 patients. Action based on presumptive eligibility means that  
7 the 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 one hundred fifty  
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  
18 eligibility determinations, and therefore must remain in the



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

8 Regulatory and government mandates create barriers to  
9 transferring waitlisted patients. One such barrier is the delay  
10 in completing medicaid eligibility determinations for waitlisted  
11 patients. Senate Concurrent Resolution No. 198, adopted by the  
12 legislature in 2007, requested the Healthcare Association of  
13 Hawaii to conduct a study of patients in acute care hospitals  
14 who are waitlisted for long-term care, and to propose solutions  
15 to the problem. The following is an excerpt from the resulting  
16 2008 report to the legislature addressing the critical problem  
17 of waitlisted patients and the regulatory barrier of medicaid  
18 eligibility determinations:

19 "Hawaii State Medicaid eligibility/re-eligibility  
20 determinations:

21 (a) Presumptive eligibility/re-eligibility: The task  
22 force is very concerned about the amount of time it



1 takes to complete the Medicaid eligibility and re-  
2 eligibility process. Staff within hospitals, nursing  
3 facilities, etc. report spending a significant amount  
4 of time assisting families with Medicaid applications,  
5 following up with families to ensure their compliance  
6 in submitting the required documentation to support  
7 the application, hand carrying applications to the  
8 Medicaid eligibility office, following up with  
9 eligibility workers on the status of applications,  
10 etc. They report that hand-carried applications are  
11 often misplaced, the time clock for eligibility does  
12 not start until the completed application is located  
13 within the DHS, family members may be non-compliant in  
14 completing the necessary paperwork since the patient  
15 is being cared for safely and the facility has no  
16 option for discharging the patient, and the providers  
17 believe that they have taken on a beneficiary services  
18 role of assisting consumers that should be assumed by  
19 DHS. The Medicaid eligibility and re-eligibility  
20 application process in Hawaii is obsolete and unable  
21 to handle the current volume. It relies on a paper-  
22 driven system that receives a high volume of



1 applications per day. Delays in processing  
2 applications in a timely manner translates to delays  
3 in access to care for Medicaid beneficiaries. Acute  
4 care hospitals report that in many cases they have not  
5 been able to transfer patients to long term care  
6 because the delay in making a determination of  
7 Medicaid eligibility resulted in too long a delay in  
8 placement in a nursing facility or home and community  
9 based setting. By the time the Medicaid eligibility  
10 was approved, the bed in the long-term care  
11 facility/setting was taken. The direct labor hours  
12 involved in following up on the process negatively  
13 impact providers across the continuum. Many have  
14 hired outside contractors to assist in the application  
15 process...

16 (b) Shifting responsibility for consumer assistance in  
17 completing the Medicaid application from the provider  
18 of service to the state department of human services:  
19 Providers have taken on the role of consumer services  
20 representatives when patients/families need to submit  
21 applications for Medicaid eligibility or to reapply  
22 for eligibility. Often, providers end up spending



1 hours to days "tracking down" required documentation  
2 to include with the Medicaid application and it has  
3 become labor intensive. Many have hired external  
4 organizations to assist in this process. Delays by  
5 patients/families in completing Medicaid applications  
6 result in bad debt and charity care incurred by  
7 providers and they have no recourse but to hold the  
8 family members accountable and/or discharge the  
9 patient due to non-payment.

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

19 The purpose of this Act is to require the department of  
20 human services to provide medicaid presumptive eligibility to  
21 patients who have been waitlisted for long-term care.



1 This Act also begins the process of developing a long-term  
2 solution to severe problems associated with processing medicaid  
3 applications that include extended application processing times  
4 and misplaced applications. The existing application process is  
5 obsolete because it is paper-based. A computer-based system  
6 would be much more efficient. This Act requires the department  
7 of human services to conduct a study of a computerized medicaid  
8 applications system.

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

12 "§346- Presumptive eligibility under medicaid for  
13 waitlisted patients. (a) The department shall presume that a  
14 waitlisted patient applying for medicaid is eligible for  
15 coverage; provided that the applicant is able to show:

16 (1) Proof of an annual income at or below the maximum  
17 level allowed under federal law or under a waiver  
18 approved for Hawaii under Title 42 United States Code  
19 Section 1396n, as applicable;

20 (2) Verification of assets;

21 (3) Confirmation of waitlisted status as certified by a  
22 health care provider licensed in Hawaii; and



1           (4) Proof of meeting the level of care requirement for  
2           institutional or home- and community-based long-term  
3           care as determined by a physician licensed in Hawaii.

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

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

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



1 the provider or the plan for the time during which the  
2 waitlisted patient was enrolled."

3 SECTION 3. The department of human services shall submit a  
4 report to the legislature no later than twenty days prior to the  
5 convening of the regular sessions of 2012 through 2016,  
6 inclusive, of findings and recommendations, including proposed  
7 legislation, regarding the costs and other issues related to  
8 medicaid presumptive eligibility.

9 SECTION 4. The department of human services shall conduct  
10 a study for a potential computerized system for processing  
11 medicaid applications. The study shall consider different  
12 alternatives, assess each alternative, and recommend the best  
13 alternative. The study shall consider the requirements of  
14 Hawaii's medicaid program, the ability of each alternative to  
15 meet these requirements, and costs. The department of human  
16 services shall submit a report of its findings and  
17 recommendations, including proposed legislation, to the  
18 legislature no later than twenty days prior to the convening of  
19 the regular session of 2012.

20 SECTION 5. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$200,000 or so much  
22 thereof as may be necessary for fiscal year 2011-2012 to cover





1 the cost of any reimbursements made to providers or plans for  
2 services provided during the time that waitlisted patients are  
3 enrolled but eventually determined to be ineligible.

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

6 SECTION 6. New statutory material is underscored.

7 SECTION 7. This Act shall take effect on July 1, 2011;  
8 provided that section 2 of this Act shall be repealed on July 1,  
9 2016.

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**Report Title:**

Health; Medicaid Eligibility; Appropriation

**Description:**

Creates presumptive medicaid eligibility for waitlisted patients. Repeals 7/1/2016.

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