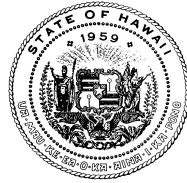


# SB 1240

Measure Title:	RELATING TO MEDICAID WAIVER.
Report Title:	Medicaid waiver
Description:	Removes sunset date of section 321-14.8, Hawaii Revised Statutes, and adds exception for Medicaid waiver provider-agencies providing services to Medicaid waiver participants.
Companion:	<a href="#">HB1014</a>
Package:	Governor
Current Referral:	CPH/HMS
Introducer(s):	KOUCHI (Introduced by request of another party)



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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**Testimony in SUPPORT of SB1240  
(RELATING TO MEDICAID WAIVER)**

SENATOR ROSALYN H. BAKER, CHAIR  
SENATOR RUSSEL E. RUDERMAN, CHAIR  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
SENATE COMMITTEE ON HUMAN SERVICES

Hearing Date: February 20, 2019                      Room Number: 229  
9 a.m.

1    **Fiscal Implications:** Will eliminate cost burden to agencies that provide services in the home  
2    and community based services waiver for people with intellectual and developmental disabilities.  
3    Will eliminate the need to adjust rate payments to home and community based services waiver  
4    providers for certain services for people with intellectual and developmental disabilities.

5    **Department Testimony:** This measure proposes to amend 321-14.8, HRS, to provide an  
6    exclusion for agencies serving participants in the Medicaid home and community based services  
7    waiver for people with intellectual and developmental disabilities (HCBS I/DD waiver). DDD  
8    operates the HCBS I/DD waiver on behalf of the Department of Human Services, Med-QUEST  
9    (DHS-MQD), which is the State Medicaid agency. It also makes permanent the provisions in  
10   Act 21, Special Session Laws of Hawaii 2009, as amended by Act 125, Session Laws of Hawaii  
11   2014, by removing the sunset date of June 30, 2019.

12   HRS § 321-14.8 requires home care agencies to be licensed by the DOH. “Home care services”  
13   as defined in HRS § 321-14.8 include but are not limited to:

- 14        (1) Personal care, including assistance with dressing, feeding, and personal hygiene to  
15        facilitate self-care;
- 16        (2) Homemaker assistance, including housekeeping, shopping, and meal planning and  
17        preparation; and
- 18        (3) Respite care and assistance and support provided to the family.

1 Hawaii Administrative Rules (HAR) § 11-700-2 defines “home care service” as “personal care or  
2 homemaker services, which are provided to clients in the client’s temporary or permanent place  
3 of residence.” HAR § 11-700-6(b) requires that personal care services be performed by personal  
4 care aides, who are defined in HAR § 11-700-2 as “a person who has successfully completed the  
5 basic nurse aide course in a state-approved nurses aide training program or an equivalent  
6 course.”

7 Among services provided through the HCBS I/DD waiver are two CMS-approved services called  
8 Personal Assistance Habilitation (PAB) and Residential Habilitation (ResHab). PAB includes  
9 assistance or habilitative training provided in the participant’s home to enable a participant to  
10 acquire, retain, and/or improve skills. ResHab provides these habilitative services in licensed or  
11 certified setting. As defined, PAB and ResHab may fall within the definition of personal care,  
12 which is included in the statutory and regulatory definitions of “home care services” and “home  
13 care service”, respectively.

14 The majority of I/DD waiver participants who live in licensed or certified residential settings or  
15 at home do not require nursing services. The requirement for nursing certifications by all  
16 providers of services in these settings will add considerable cost and burden to I/DD waiver  
17 provider agencies, which may impact access to services for participants with intellectual and  
18 developmental disabilities.

19 The HCBS I/DD waiver has extensive oversight of all services as part of required participant  
20 safeguards to ensure the health, safety, and rights of HCBS I/DD waiver participants and to  
21 ensure services are delivered by qualified providers as required by the Centers of Medicare and  
22 Medicaid Services. All I/DD providers must pass initial and ongoing monitoring against defined  
23 standards to maintain their provider agreements issued by the DHS-MQD.

24 This measure is intended to provide a narrow exclusion for agencies that are approved by DHS-  
25 MQD to serve HCBS I/DD waiver participants. This will ensure that HCBS I/DD waiver  
26 participants continue to have access to services from qualified HCBS I/DD waiver provider  
27 agencies without unnecessary burden.

1 **Offered Amendments:** In order to clarify that the requested amendment applies exclusively to  
2 participants of the HCBS I/DD waiver, and not to other populations we offer the following  
3 amendment:

4 On page 3, line 14, add the word “exclusively” so that paragraph 2 reads as follows:

5 (2) Exclusively to participants in the medicaid home and community based services waiver,  
6 pursuant to section 1915(c) of the Social Security Act, by an agency approved by the department  
7 of human servces, med-quest divison.”

8 Thank you very much for hearing this measure and for the opportunity to testify.

**SB-1240**

Submitted on: 2/19/2019 3:30:47 PM

Testimony for CPH on 2/20/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sharon Moone-Johums	Testifying for Easterseals Hawaii	Support	No

## Comments:

Home and community based waiver providers (HCBWP) provide much needed personal assistance care and activities of daily living to people with disabilities. HCBWP are regulated and licensed by the Developmental Disabilities Division and must meet standards required by DDD, MedQUEST and CMMS. Not all waiver participants who live in residential settings require nursing services and requiring nursing certifications of providers like Easter Seals Hawaii will pose an undue fiscal burden which will ultimately deny people with intellectual and developmental disabilities the habilitation care they need.

**LATE**

**SB-1240**

Submitted on: 2/19/2019 5:13:42 PM

Testimony for CPH on 2/20/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lei Fountain	Testifying for The Arc in Hawaii	Support	No

Comments:

The Arc in Hawaii supports SB 1240 which exempts service providers that participate in the medicaid home and community based services waiver for people with intellectual and developmental disabilities from home care licensing requirements. The Arc in Hawaii provides ID/DD Waiver services for the island of Oahu. We believe this bill is necessary because the current administrative rules require all individuals who provide home care services to complete a basic nurse's aide course. Many of our participants who receive "home care services" do not have nursing needs. In today's job market, it is difficult enough to recruit and retain direct service workers with the compassion needed to do this kind of work. Being that nursing aide skills are not needed for PAB or RES HAB work, I humbly request that we are not burdened with yet another requirement. Humbly submitted, Lei Fountain, Executive Director/The Arc in Hawaii