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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 there are medicaid  
2 beneficiaries in the State with autism, intellectual  
3 disabilities, or developmental disabilities who are unable to  
4 access home- and community-based services. These individuals  
5 are at higher risk for future institutionalization, because they  
6 may lack independent daily living skills and may be unable to  
7 manage their own care.

8           Accordingly, the purpose of this Act is to:

- 9           (1) Require the department of human services to establish  
10           and implement a program to offer home- and community-  
11           based services to individuals with autism,  
12           intellectual disabilities, or developmental  
13           disabilities who are found, through a functional  
14           assessment, to be at risk of institutionalization;
- 15           (2) Require the department of human services to apply by  
16           December 31, 2020, for an amendment to the QUEST  
17           integration section 1115 demonstration project to



1 provide coverage for home- and community-based  
2 services for individuals with autism, intellectual  
3 disabilities, and developmental disabilities; and  
4 (3) Appropriate moneys for the department's program for  
5 at-risk individuals who do not meet medicaid's  
6 criteria for treatment at an intermediate care  
7 facility.

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

11 "PART . HOME- AND COMMUNITY-BASED SERVICES FOR  
12 INDIVIDUALS WITH AUTISM, INTELLECTUAL DISABILITIES,  
13 OR DEVELOPMENTAL DISABILITIES

14 §346-A Definitions. As used in this part, unless the  
15 context requires otherwise:

16 "Autism" has the same meaning as defined in section  
17 431:10A-133.

18 "Developmental disability" has the same meaning as defined  
19 in section 321-502.

20 "Intellectual disability" has the same meaning as defined  
21 in section 333F-1.



1 "Therapeutic care" means services provided by licensed  
2 speech pathologists, psychiatrists, psychologists, social  
3 workers, clinical social workers, and physical therapists and  
4 registered occupational therapists.

5 §346-B Individuals with autism, intellectual disabilities,  
6 or developmental disabilities; eligibility for home- and  
7 community-based services. (a) Beginning January 1, 2021, and  
8 notwithstanding any law to the contrary, the State's medicaid  
9 managed care and fee-for-service programs shall not deny  
10 coverage for home- and community-based services to individuals  
11 who have been diagnosed with autism, intellectual disabilities,  
12 or developmental disabilities.

13 (b) Services covered under this section shall include, but  
14 not be limited to:

- 15 (1) Assistive technology;
- 16 (2) Career planning, including vocational assessment and  
17 job placement services;
- 18 (3) Community transition services;
- 19 (4) Day habilitation;
- 20 (5) Family support;
- 21 (6) Home modifications;



- 1           (7)   Nutritional consultation;
- 2           (8)   Residential habilitation;
- 3           (9)   Respite care;
- 4           (10)  Specialized skill development, including behavioral
- 5                   specialists, community support programs, and
- 6                   systematic skill building services;
- 7           (11)  Supported employment, including extended employment
- 8                   support and intensive job coaching;
- 9           (12)  Temporary supplemental services;
- 10          (13)  Therapeutic care;
- 11          (14)  Transitional work services;
- 12          (15)  Vehicle modifications;
- 13          (16)  Supportive housing; and
- 14          (17)  Access to medicaid's early and periodic screening,
- 15                   diagnosis, and treatment program for eligible
- 16                   individuals under the age of twenty-one.
- 17          (c)   Services covered pursuant to this section shall be
- 18 consistent with all federal and state privacy, security, and
- 19 confidentiality laws.
- 20          (d)   Notwithstanding any other law to the contrary, the
- 21 provisions of this section shall comply with the applicable



1 federal requirements related to utilization, coverage, and  
2 reimbursement for services provided to individuals who have been  
3 diagnosed with autism, intellectual disabilities, or  
4 developmental disabilities.

5 §346-C Program for at-risk individuals with autism,  
6 intellectual disabilities, or developmental disabilities. (a)

7 The department shall establish and implement a program for  
8 providing additional home- and community-based services,  
9 including long-term services and supports, to at-risk  
10 individuals with autism, intellectual disabilities, or  
11 developmental disabilities who do not meet medicaid's criteria  
12 for treatment at an intermediate care facility. Individuals  
13 eligible for services under this program shall:

- 14 (1) Have been diagnosed with autism, an intellectual  
15 disability, or a developmental disability;
- 16 (2) Have been found through a functional assessment to be  
17 at risk of deteriorating to the institutional level of  
18 care if certain long-term services and supports are  
19 not provided;
- 20 (3) Have been found ineligible under medicaid for  
21 treatment at an intermediate care facility; and



1           (4) Reside in his or her own home; provided that  
2           individuals who reside in a community shelter may  
3           receive at-risk services that are appropriate for  
4           their living environment as determined by                    ;  
5           provided further that services under this section  
6           shall not be provided to individuals already residing  
7           in a care facility, including but not limited to a  
8           care home, foster home, hospital, nursing facility, or  
9           hospice facility.

10           (b) Services covered under this section shall be provided  
11          for a maximum of one year, based on the needs of the eligible  
12          individual, but may be renewed in yearly increments if a  
13          functional assessment of the individual indicates that ongoing  
14          at-risk services are medically necessary."

15           SECTION 3. No later than December 31, 2020, the department  
16          of human services shall seek a waiver pursuant to section 1115  
17          of the Social Security Act and other approvals from the centers  
18          for medicare and medicaid services that may be necessary to  
19          amend the state medicaid plan to provide coverage for home- and  
20          community-based services for medicaid eligible individuals who



1 have been diagnosed with autism, intellectual disabilities, or  
2 developmental disabilities.

3 SECTION 4. The provision of home- and community-based  
4 services for individuals diagnosed with autism, intellectual  
5 disabilities, or developmental disabilities shall apply to all  
6 plans issued under medicaid managed care and fee-for-service  
7 programs in the State.

8 SECTION 5. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so much  
10 thereof as may be necessary for fiscal year 2020-2021 for the  
11 department of human services to establish and implement a  
12 program for providing home- and community-based services to at-  
13 risk individuals with autism, intellectual disabilities, or  
14 developmental disabilities; provided that the sum appropriated  
15 shall be in addition to the base budget of the department of  
16 human services.

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

19 SECTION 6. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



# H.B. NO. 2098

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

7 SECTION 8. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:

John M. Pappas  
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JAN 17 2020





# H.B. NO. 2098

**Report Title:**

DHS; Autism; Intellectual Disabilities; Developmental Disabilities; Home- and Community-Based Services; Medicaid; Appropriation

**Description:**

Requires the Department of Human Services to establish and implement a program for providing additional home- and community-based services to at-risk individuals with autism, intellectual disabilities, or developmental disabilities who meet certain criteria and who do not meet Medicaid's criteria for treatment at an intermediate care facility. Requires the department to seek a section 1115 waiver to amend the state Medicaid plan to cover home- and community-based services for individuals with autism, intellectual disabilities, or developmental disabilities. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

