

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony COMMENTING on SB1615 SD1
RELATING TO THE DEPARTMENT OF HEALTH

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 3/1/23

Room Number: 211

1 **Department Testimony:**

2 SB1615 SD1 requires the Department of Health (DOH) Developmental Disabilities
3 Division (DDD) to adopt rules amending its eligibility criteria for the Medicaid §1915 (c) Home
4 and Community-Based Services (HCBS) Waiver to include individuals having an intellectual or
5 developmental disability and a comorbid mental illness. It also requires the DOH to submit a
6 report of the status of the department's adoption of rules, including any proposed legislation,
7 prior to the convening of the 2024 legislative session, and appropriates general revenue funds for
8 FY24 and FY25 to implement the measure and establish full time positions.

9 DOH offers the following clarifying comments on SB1615 SD1:

10 The Department of Human Services (DHS), Med-QUEST Division (MQD), is the single
11 state Medicaid agency (SMA) recognized by the Centers for Medicare and Medicaid Services
12 (CMS) with respect to Hawaii's two Medicaid Waivers. The DOH-DDD operates the §1915(c)
13 Medicaid HCBS Waiver for Individuals with Intellectual and Developmental Disabilities (I/DD)

1 through a memorandum of agreement with DHS-MQD. DOH-DDD cannot determine admission
2 into the §1915(c) Medicaid Waiver, which includes whether the individual has met Medicaid
3 requirements and the requisite institutional level of care, as these are functions of the SMA.
4 DOH-DDD administrative rules may not adopt or amend rules for eligibility to the Medicaid
5 HCBS waiver. CMS regulations require states to serve people in an I/DD waiver whose
6 disabilities are due to an intellectual or developmental disability and would otherwise be served
7 in an Intermediate Care Facility for Individuals with Intellectual and Developmental Disabilities
8 (ICF-IID). Other programs in the state's Medicaid 1115 waiver serve people whose disability
9 are due to other impairments specified in SB1615 SD1 such as dementia, mental illness,
10 emotional disorders, substance abuse, sensory impairment, learning disabilities, attention deficit
11 hyperactivity disorder, spinal cord injuries, or neuromuscular disorders.

12 The §1915(c) Waiver provides services and supports that allow individuals with I/DD to
13 live in their homes and in the community, rather than to reside in an institution. Individuals with
14 I/DD often have co-occurring diagnoses including mental illnesses, and at a much higher
15 incidence than is found in the non-disabled population. To clarify a misstatement in SB1615
16 SD1, eligibility is not denied to individuals who have a co-occurring condition such as dementia,
17 mental illness, emotional disorders, substance abuse, sensory impairment, learning disabilities,
18 attention deficit hyperactivity disorder, spinal cord injuries, or neuromuscular disorders and an
19 eligible condition, including I/DD, cerebral palsy; epilepsy; autism spectrum disorder (ASD); or
20 a neurological condition, central nervous system disorder, or chromosomal disorder that results
21 in impairment in both general intellectual functioning and adaptive behavior.

1 Clinical treatment of co-morbid diagnoses including mental illness and physical health
2 condition are provided through an individual's Medicaid managed care health plan. Services in
3 the §1915(c) Waiver cannot supplant or duplicate programs or treatment available from other
4 federal, state, or county agencies

5 The DOH is committed to working with DHS and stakeholders to ensure the state's
6 programs meet the needs of Hawaii residents having I/DD. Both departments are required to
7 ensuring compliance with federal and state requirements with respect to Medicaid and Medicaid
8 waivers in order to sustain the federal share of funding for Hawaii's vulnerable citizens.

9

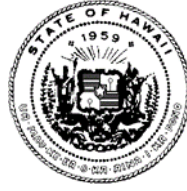
10 **Fiscal Implications:**

11 The potential cost impact for this bill would be high, especially due to the uncertainty of
12 Medicaid approval of federal funding for this proposal, including a high likelihood that the state
13 would lose funding for the current 1915(c) waiver due to an ineligible population. Additional
14 staffing would be necessary to address increased enrollment.

15

16 Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 27, 2023

TO: The Honorable Senator Jarrett Keohokalole, Chair
Senate Committee on Commerce & Consumer Protection

The Honorable Senator Donovan Dela Cruz, Chair
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: **SB 1615 SD1 – RELATING TO THE DEPARTMENT OF HEALTH.**

Hearing: March 1, 2023, 9:30 a.m.
Conference Room 211 & Videoconferencing, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) offers comments and defers to the Department of Health. DHS respectfully requests that any appropriation not replace or reduce priorities identified in the executive budget and Governor's Messages.

PURPOSE: The bill's purpose requires the Developmental Disabilities Division (DDD) of the Department of Health (DOH) to amend its eligibility criteria for the home and community-based services Medicaid waiver to include individuals having an intellectual or developmental disability and a comorbid mental illness. Makes an appropriation. (SD1) This measure was amended by:

- (1) Inserting a blank appropriation amount for the Department of Health to carry out this measure, including funding for establishing an unspecified number of full-time equivalent positions; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

DHS recognizes that it can be very difficult and challenging for families with children who have intellectual or developmental disabilities and who also have mental illnesses. As the single-state Medicaid agency recognized by the Centers for Medicare and Medicaid (CMS) concerning Hawaii's two Medicaid waivers, DHS Med-QUEST Division (MQD) is responsible for submitting, amending, and overseeing these waivers. DDD operates the §1915(c) Medicaid Home and Community-Based Services (HCBS) Waiver for individuals with intellectual and developmental disabilities (I/DD) on our behalf. For admission into the §1915(c) Waiver, an individual must meet Medicaid eligibility requirements and the requisite institutional level of care. Many individuals receiving services in the 1915(c) Waiver operated by DDD have co-occurring behavioral health diagnoses. However, the 1915(c) waiver services are limited to home and community-based services and supports that allow individuals with I/DD to live in their homes and the community rather than reside in an institution. In contrast, the individual's Medicaid health plan provides the full range of health care services, including clinical treatments for mental illness.

We recognize that the health care system can be fragmented and difficult to navigate, even more so when individuals have multiple complex needs. For that reason, we agree and are committed to working with DDD, and the Medicaid QUEST Integration Health Plans to improve care coordination, especially for those with complex health, behavioral and social needs.

Thank you for the opportunity to provide comments on this measure.

SB-1615-SD-1

Submitted on: 2/24/2023 7:07:33 PM

Testimony for CPN on 3/1/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

We think this is a great idea though we suspect the Department of Health will not agree with us. It has been very frustrating to see people with co-occurring disabilities (Intellectual Disability and Mental Illness) not receive appropriate services. For years we have seen clients "finger pointed" back and forth between the two Divisions at the Department of Health. Each Division has told the individual they are not eligible for services and must go to the other Division. Frequently, they end up receiving no services. In truth, they are potentially eligible (or should be) for services from both Divisions .We do acknowledge there are certain definitions in federal law of "developmental disability" and there are some implications to that. We do not believe, however, that that would preclude the goals this bill is attempting to accomplish. We also note that the bill points out several other diagnoses that are specifically excluded from eligibility. We have consistently pointed out to the Department that their Administrative Rules which provide those exclusions are in our view beyond the scope of what the legislature has directed in Chapter 333 Hawaii Revised Statutes. While the bill does not mandate that they address that, we believe that is also an area for the legislature to explore. If the bill moves forward this session, that is definitely worth further discussion.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 1, 2023

The Honorable Senator Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection
And
The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means
The Thirty-Second Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Keohokalole, Senator Dela Cruz, and Committee Members:

SUBJECT: SB1615 SD1 RELATING TO THE DEPARTMENT OF HEALTH.

The Hawaii State Council on Developmental Disabilities **provides comments to SB1615 SD1**, which requires the Developmental Disabilities Division of the Department of Health to amend the eligibility criteria for the home and community-based services Medicaid waiver to include individuals having an intellectual or a developmental disability and a comorbid mental illness. Appropriates funds. (SD1)

We support the intent of SB1615 SD1 and defer to the Department of Human Services for clarification on what the Home and Community-Based Service (HCBS) 1915c I/DD Medicaid Waiver Program entails. We respectfully provide a recommendation on how to improve the eligibility process without amending it or adding additional staff to the Department of Health.

When Waimano Training School and Hospital (Waimano) was opened, the individuals mentioned in SB1615 were placed at Waimano and, upon the closure of Waimano, were placed within the 1915c I/DD Waiver program. However, as time passed, some individuals who once qualified for the 1915c Waiver program were no longer eligible, even if they had previously been placed at Waimano. Intake into the Developmental Disabilities Division (DDD) and subsequently into the 1915c Waiver Program appears to change with each new administrator. For instance, the DDD currently determines if an individual's mental impairment is caused by a mental illness or other psychiatric condition. If DDD determines it is, then the individual is not eligible for their services. This was not the case under previous administrators.

Our recommendation; Instead of adding staff as requested within SB1615 SD1, we encourage the Department of Health to go back to utilizing their Child and Adolescent Mental Health Division (CAMHD) or the Adult Mental Health Division (AMHD), depending on the age of the individual, to determine if the mental impairment of the individual is primarily caused from dementia, mental illness, emotional disorders, substance abuse, sensory impairment, learning disabilities, attention deficit hyperactivity disorder, spinal cord injuries, neuromuscular disorders or is it caused by an intellectual or developmental disability.

The Child & Adolescent Mental Health Division and Adult Mental Health Division are the subject matter experts for mental impairments within the Department of Health. Continuing to

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March 1, 2023

Senator Keohokalole and Senator Dela Cruz

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have the Developmental Disabilities Division determine the “cause of mental impairment” for individuals who have an intellectual or a developmental disability AND a comorbid mental illness, doesn’t make sense.

Allowing CAMHD or AMHD to make the determination for this subset of individuals who have an intellectual or a developmental disability AND a comorbid mental illness will provide consistency within the Department, as well as remove this burden from DDD allowing them to focus on the other areas of their intake process. We do not believe this will increase the work of CAMHD or AMHD because these individuals are already applying for services with them. This also appears to be a good opportunity for the Department of Health to break down their silos between their divisions and utilize each other’s expertise and work together.

Although we know the cause of mental impairment is only one part of the intake for CAMHD, AMHD and DDD. We believe this will help close a gap in services for some of the individuals who have an intellectual or a developmental disability AND a comorbid mental illness. Currently, we know of individuals not receiving any service because CAMHD or AMHD determined they are not eligible due to their developmental disability causing their mental impairment, yet, DDD determined they are not eligible because their mental impairment is caused by a mental illness or another psychiatric condition.

Thank you for the opportunity to provide comments to **SB1615 SD1**.

Sincerely,

Daintry Bartoldus
Executive Administrator

SB-1615-SD-1

Submitted on: 2/27/2023 10:33:02 AM

Testimony for CPN on 3/1/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia Bartlett	Testifying for Hawaii Autism Foundation	Support	Written Testimony Only

Comments:

Prior to covid parents and parent groups were struggling to cover a gap for adults. When our special needs children hit age 22 is can be like falling off a cliff. The school services end and the DOH takes over with a smaller budget and with different criteria which can shut out from services those that function in certain higher ways but are disfunctional in other ways. They are always one step away from becoming homeless or even becoming a parient in the state mental health hospitol which has a much higher budget. This Bill would save the state money as it could support those before a worsening situation.

My own adult daughter has the DD waiver services and is fine because she is extremely low functioning and the state offers her adult support services. But many other parents have children that are higher functioning, just enough to not qualify for services and there is nothing to support them. They have no aid going to community college or no personal support service. No service to take them out into the community. They do not qualify for services and these become at risk for homelessness when their parents die. I see parents suffering and having to quit their jobs because their adult child has no services.

As Executive Director of Hawaii Autism Foundation and we see a crisis building for these gap persons. Walking in Waikiki I saw a clearly autistic young man among the homeless. This will happen more and more if we do not address and cover these in the functioning "gap." This Bill is critical for these gab autistic persons.

SB-1615-SD-1

Submitted on: 2/27/2023 6:06:53 PM

Testimony for CPN on 3/1/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Melodee Haole	Testifying for K.E.L.I.I. FOUNDATION	Support	Written Testimony Only

Comments:

Aloha,

Chair Donovan Delacruz, Chair Jarrell Keohokalole and members of the Senate WAM, Senate CCP Committee.

The K.E.L.I.I. FOUNDATION STRONGLY SUPPORT BILL SB 1615.

My Name is Melodee Haole, I am the Founder, and President of the K.E.L.I.I. Foundation. I am not only an advocate but I am a mother of a 29 year old, SEVERE AUTISTIC son named Kelii. I personally understand the struggles of our special needs, Developmental, and Intellectual disabilities families. Our community has been struggling for years in the lack of the right support for our community. My Son personally falls under this AT- RISK GAP POPULATIONS THAT HAS DUAL DIAGNOSIS Autism with, COMORBID, CO OCCURRING DISORDERS. My son has been receiving DD services since 7 years old because of his genetic disorder, he later was diagnosed autistic and when he was 16 years old he started having more behaviors due to his anxiety, depression and processing disorder.

DD then tried to push him off to the Child and adolescent mental health division, and tried to STOP his services. The Child and adolescent mental health division said my son doesn't qualify because of his intellectual disability, because the lack of support my son PCP placed him in Queens hospital twice, my son got denied by DD crisis shelter 3 times due to his behaviors, I was told our only hope would be to send him to the mainland away from his family and his only support system. I refused to listen and got in touch with Senator Mike Gabbard; within a year he helped my son to receive dual services. This is when I realized there was nothing for THIS POPULATION and started the Keiki Education Living Independent Institute (K.E.L.I.I.)

In 2019 We tried to get the Kelii's Law passed, in 2020 Senator Gabbard introduced another version of the Kelii's Law and Senator Fevella introduced K.E.L.I.I. FOUNDATION Resolution for THE AT- RISK GAP POPULATIONS, then COVID hit.

Now it's 2023 and our community is struggling even more, during COVID I had to help a few young adults that fell through the GAP of the TRANSITION between DOH, DOE, DDD, SSI, these young adults had no guidance or help during transitioning from DOE to adulthood and

some ended up homeless. The only way we can help the AT- RISK GAP POPULATION and prevent them from becoming HOMELESS is to make sure they have the RIGHT SUPPORT SYSTEM and services through DDD because of their intellectual or developmental disorder with some type of Co occurring mental illness. This AT RISK GAP POPULATION FALLS UNDER THE LAW CHAPTER 333F.

Another example of an AT-RISK young adult with intellectual disabilities with co occurring mental health that the system failed : Shawn A. was in the foster care and special ED system his whole life, he didn't have the right supporting parent or advocate to maneuver the difficulties of all these agencies working together especially during the transition to adulthood. Because of this he had NO Developmental disabilities services, No job training help, No medical, and ended up HOMELESS, self medicating, people on the streets manipulated him to steal, he started selling drugs, he got into heavy drugs, and ended up in prison. Because of his Developmental and intellectual disabilities, he really couldn't process what was happening, he felt these people on the street were his only family and friends. His younger sister found him and tried to help him but he started to get depressed and missed his friends on the streets. In 2020 the beginning of COVID he didn't understand and was frustrated, he tried to commit suicide and jump out of his sister car when they were on the freeway, a few cars ran him over, miraculously he survived and is here to tell his story.

I've been working with this young adult to get services for over 1 year and it's so sad that his documents are somehow lost in the universe. This young man is 32 years old and his last school can barely find any assessments, because he was homeless for 10 years and he has no pcp. The whole system failed him from the foster care, DOE, DDD,DOH, SSI

If this young adult had DDD services after high school he would have had the right support services to help him to live the best quality of life.

Mahalo for allowing me to testify.

Melodee Haole

LATE

SB-1615-SD-1

Submitted on: 2/28/2023 10:32:36 PM

Testimony for CPN on 3/1/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeanette White	Testifying for K.E.L.I.I. Foundation	Support	Written Testimony Only

Comments:

Aloha Chair Donovan DelaCruz, Chair Jarrell Keohokalole and the members of Senate WAM, Senate CCP committee,

I'm a parent of a child with ASD, and am a member with the KELII Foundation.

I STRONGLY SUPPORT BILL SB 1615.

I am requesting DDD to define their eligibility criteria for individuals with I/DD and co-occurring mental health disorders to receive I/DD medicaid waiver services. These AT- RISK GAP POPULATIONS THAT have DUAL DIAGNOSIS Autism with, COMORBID, CO OCCURRING DISORDERS, DEFINE ITS I/DD AND CO OCCURRING MENTAL HEALTH DISORDER. THIS POPULATION FALLS UNDER THE LAW CHAPTER 333F.

Thank you for your time,

Jeanette White