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# A BILL FOR AN ACT

RELATING TO HUMAN SERVICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that nearly one-third of  
2 the State's residents and half of the State's children are  
3 enrolled in medicaid. As a result of the coronavirus disease  
4 2019 pandemic, medicaid enrollment in the State has increased  
5 forty per cent since March 2020. However, timely access to  
6 providers can prove difficult, particularly in rural areas where  
7 health care providers are in short supply. In 2022, the State  
8 had a shortfall of more than seven hundred fifty full-time  
9 physicians and nearly four thousand nonphysician, patient-facing  
10 health care workers, such as nurses, technicians, and patient  
11 service representatives.

12           The legislature further finds that due to the significant  
13 number of Hawaii residents receiving medicaid coverage, health  
14 care providers often receive less reimbursement from medicaid  
15 than from medicare or commercial insurance for the same service.  
16 While some providers, such as large hospitals, large nursing



1 centers, and providers who perform certain services, are  
2 reimbursed at cost or at the same rates as medicare, most  
3 individual health care professionals, such as physicians,  
4 psychiatrists, psychologists, community-based caregivers,  
5 advanced practice registered nurses, nurses, certified nursing  
6 assistants, and nurse assistants, are not. Lesser  
7 reimbursements contribute to the challenges providers face in  
8 sustaining practices, leading some health care providers to  
9 limit or refuse to accept medicaid patients.

10 Community-based care homes are a vital part of the State's  
11 long-term health care continuum that provide round-the-clock  
12 care to over twelve thousand patients, many of whom are medicaid  
13 patients. If only large hospitals and large nursing centers  
14 receive medicaid reimbursement equal to the medicare  
15 reimbursement rate, this would cause a substantial reduction of  
16 the number of community-based care homes in the State and will  
17 lead to a significant number of patients transferring from these  
18 care homes to large nursing centers and hospitals, who would not  
19 be able to accept the thousands of new patients. The  
20 legislature therefore finds it is vital to ensure support, with  
21 fair pay, to licensed community-based caregivers, including but



1 not limited to community care foster homes, type-I adult  
2 residential care homes, expanded adult residential care homes,  
3 and developmentally disabled domiciliary homes.

4 The legislature further finds that the department of human  
5 services med-QUEST division completed a study of home and  
6 community-based rates paid for community care foster family  
7 homes, expanded adult residential care homes, and other home and  
8 community-based services. The department of human services  
9 med-QUEST division contracted Milliman, an actuarial firm, for a  
10 wide range of services and to conduct the study. The study  
11 commenced in July 2022, and the med-QUEST division issued the  
12 final report on December 30, 2022.

13 The legislature finds that a key part of the rate study  
14 included stakeholder outreach and engagement with home and  
15 community-based service providers and their associations,  
16 collecting provider cost and wage survey data, and getting  
17 provider feedback on draft rate calculations. Not surprisingly,  
18 the provider surveys showed significant wage pressure given the  
19 current labor market. The rate study methodology used wage and  
20 salary data for direct-care staff and supervisors,  
21 employee-related expenses, transportation and administration,



1 program support, overhead, and United States Bureau of Labor  
2 Statistics and industry wage indices to pay for employee  
3 benefits such as health insurance.

4 The legislature believes that the pandemic dramatically  
5 impacted health care and long-term care delivery systems. Many  
6 of these changes, particularly as they relate to patient  
7 preferences, facility staffing practices, and technology  
8 utilization, will persist long after the pandemic abates.  
9 Accordingly, now is an opportune time to revisit prior thinking  
10 about long-term care reimbursement and investigate ways that it  
11 can be reimagined to promote patient care quality, support  
12 livable wages for staff, and maximize efficiency.

13 The legislature further finds that the med-QUEST division  
14 should undertake rate studies to better understand how the  
15 pandemic has shaped long-term care providers. These studies  
16 should consider how patient preferences have shifted away from  
17 institutional settings and to home and community-based ones; how  
18 patient needs evolve with the aging population; the growing  
19 complexity of patient care; and what can be done to align  
20 reimbursement with long-term trends in Hawaii. Specific  
21 attention is also necessary on programs that reward high-quality



1 care; incentivize accepting and caring for medicaid  
2 beneficiaries, especially those with complex needs; pay wages  
3 necessary for the recruitment and retention of staff across the  
4 long-term care continuum; and consider the need to update the  
5 aging physical infrastructure of many of the State's facilities.

6 The legislature also finds that it is important to focus on  
7 home and community-based service providers who serve groups with  
8 high utilization of services and who have gone the longest  
9 without a rate update, such as case management agencies,  
10 community care foster family homes, and adult day health and day  
11 care centers. The Centers for Medicare and Medicaid Services is  
12 also changing payment methods for nursing facilities. State  
13 medicaid agencies will need to adopt new reimbursement  
14 methodologies that align with the new federal payment system.  
15 These factors all create opportunities to revise how providers  
16 of long-term care are reimbursed to better meet current and  
17 future needs.

18 Accordingly, the purpose of this Act is to ensure the  
19 achievement of fair and full funding of medicaid medical care  
20 and long-term supports and services providers by:



1 (1) Adjusting the method by which the department of human  
2 services calculates payments to providers of medical  
3 care and long-term supports and services; and

4 (2) Appropriating funds.

5 SECTION 2. Section 346-59, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§346-59 Medical care and long-term supports and services  
8 payments. (a) The department shall adopt rules under chapter  
9 91 concerning payment to providers of medical care. The  
10 department shall determine the rates of payment due to all  
11 providers of medical care[~~7~~] and long-term supports and  
12 services, and pay [~~such~~] the amounts in accordance with the  
13 requirements of the [~~appropriations~~] appropriation act and the  
14 Social Security Act, as amended. Payments to critical access  
15 hospitals for services rendered to medicaid beneficiaries shall  
16 be calculated on a cost basis using medicare reasonable cost  
17 principles.

18 (b) Rates of payment to providers of medical care who are  
19 individual practitioners, including doctors of medicine,  
20 dentists, podiatrists, psychologists, osteopaths, optometrists,  
21 and other individuals providing services, shall be based upon



1 the Hawaii medicaid fee schedule. The amounts paid shall not  
2 exceed the maximum permitted to be paid individual practitioners  
3 or other individuals under federal law and regulation, the  
4 medicare fee schedule for the current year, the state limits as  
5 provided in the appropriation act, or the provider's billed  
6 amount.

7 ~~[The appropriation act shall indicate the percentage of the~~  
8 ~~medicare fee schedule for the year 2000 to be used as the basis~~  
9 ~~for establishing the Hawaii medicaid fee schedule. For any~~  
10 ~~subsequent adjustments to the fee schedule, the legislature~~  
11 ~~shall specify the extent of the adjustment in the appropriation~~  
12 ~~act.]~~

13 (c) In establishing the payment rates for other  
14 noninstitutional items and long-term supports and services, the  
15 rates shall not exceed the current medicare payment[7]; the  
16 state limits as provided in the appropriation act[7]; the rate  
17 determined by the department, which shall be reviewed for  
18 services without medicare comparisons on a consistent schedule  
19 but no longer than five years in duration; or the provider's  
20 billed amount.



1 (d) Payments to health maintenance organizations and  
2 prepaid health plans with which the department executes risk  
3 contracts for the provision of medical care to eligible public  
4 assistance recipients may be made on a prepaid basis. The rate  
5 of payment per participating recipient shall be fixed by  
6 contract, as determined by the department and the health  
7 maintenance organization or the prepaid health plan, but shall  
8 not exceed the maximum permitted by federal rules and shall be  
9 less than the federal maximum when funds appropriated by the  
10 legislature for such contracts require a lesser rate.

11 For purposes of this subsection, "health maintenance  
12 organizations" are entities approved as such~~[, and ]~~i; "prepaid  
13 health plans" are entities designated as such by the Department  
14 of Health and Human Services; and "risk" means the possibility  
15 that the health maintenance organization or the prepaid health  
16 plan may incur a loss because the cost of providing services may  
17 exceed the payments made by the department for services covered  
18 under the contract.

19 (e) The department shall prepare each biennial budget  
20 request for a medical care appropriation based upon the most  
21 current Hawaii medicaid fee schedule available at the time the





1 request is prepared[-] and the payment rates pursuant to  
2 subsection (d). The legislature shall consider the rates  
3 determined by the department pursuant to subsection (c) in  
4 making the legislative appropriation.

5 The director shall submit a report to the legislature on or  
6 before January 1 of each year when the department reviews rates  
7 without medicare comparisons, indicating an estimate of the  
8 amount of money required to be appropriated to pay providers [~~at~~  
9 ~~the maximum rates permitted by federal and state rules in the~~  
10 ~~upcoming fiscal year.] according to the rates determined by the  
11 department without medicare comparisons pursuant to subsection  
12 (c)."~~

13 SECTION 3. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so  
15 much thereof as may be necessary for fiscal year 2023-2024 to  
16 fund any costs that may arise while the department of human  
17 services establishes payment rates pursuant to section 346-  
18 59(c), Hawaii Revised Statutes.

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



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on June 30, 2024;  
4 provided that section 3 shall take effect on July 1, 2023.

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**Report Title:**

Medical Care Payments; Long-Term Supports and Services; Provider Reimbursements; Calculations; Adjustment of Method; Appropriation

**Description:**

Adjusts the method by which the Department of Human Services shall calculate payments to providers of medical care and long-term supports and services. Appropriates funds. Effective 6/30/2024. (SD1)

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

