

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 COMMUNITY LONG-TERM CARE PROGRAMS

CHAPTER 1442

HIV COMMUNITY CARE PROGRAM

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Historical Note: This chapter is based substantially upon subchapter 10.1 of chapter 17-749, subtitle 8, Hawaii Administrative Rules. [Eff 6/11/88; R

JUN 29 1992]

§17-1442-1 Goal. HIV community care program services provided under this chapter shall be directed at providing home and community-based services to assist persons with HIV infection, who are eligible for federally-funded medical assistance and who require nursing facility or hospital level of care, to remain in or return home as an alternative to institutionalization. [Eff JUN 29 1992] (Auth: HRS 346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-2 Definitions. For the purpose of this chapter:

"Acuity level A" means a nursing facility level of medical care (formerly ICF), whereby clients require services to maintain, improve/safeguard health, or to minimize disability or pain, and is a lower level of services than those provided for clients at the acuity level C.

"Acuity level C" means a nursing facility level of medical care (formerly SNF), whereby clients require skilled services that are either directly provided by, or under the supervision of skilled technical or professional personnel who meet certain qualifications: registered nurse (RN), occupational therapist (OT), physical therapist (PT), speech pathologist, audiologist.

"Acute facility" means a facility providing inpatient hospital acute level of care.

"Applicant" means an individual who has applied for HIV community care program services, but who has not received final action on their application.

"Case management services" means the assessment of the client's need, and planning, locating, coordinating, and monitoring the comprehensive group of services in the client's plan of care.

"Client" means an individual who meets the HIV community care program eligibility criteria in section 17-1442-3; voluntarily selects home and community-based services; and has been admitted into the HIV community care program.

"Contractor" means an agency or individual that has entered into a written agreement with the department to provide HIV community care program services.

"Counseling and training services" means services provided as part of a client's plan of care as authorized by the client's personal physician, that shall involve counseling for the client, family/caregiver, and professional and paraprofessional caregivers to provide the necessary support to build and enhance coping skills, as well as training that may include the nature of the disease and the disease process, methods of transmission and infection control measures, and the biological, psychological care and treatment needs of the client.

"Department" means the Hawaii department of human services (DHS).

"Emergency alarm response system (EARS)" means an electronic system placed in homes of high risk recipients to enable them to secure immediate help in the event of a physical, emotional, or environmental emergency.

"HCFA" means the United States Department of Health and Human Services, Health Care Financing Administration.

"HIV" means human immunodeficiency virus.

"HIV community care program" means the home and community-based waiver program approved by HCFA, that allows the State, under a waiver of federal statutory requirements, to provide an array of home and community-based services to assist persons with HIV infection, who are eligible for federally-funded medical assistance and who require nursing facility or hospital level of care, to remain in or return home as an alternative to institutionalization.

"Home-delivered meals" means the provision of nutritionally sound meals, not to replace or be a substitute for a full day's nutritional regimen, that are delivered to the client's home when included in the plan of care as approved by the client's physician.

"Intensive supervision of children in department of human services foster care homes" means foster care services provided by a DHS approved foster family to a foster child diagnosed with HIV infection that is in accordance with the plan of care authorized by the client's physician.

"Medical day health services" means medically or psychiatrically supervised rehabilitation and treatment oriented day health services provided in an ambulatory setting to clients who are non-residents of the facility, that are included in the client's plan of care as approved by the client's physician.

"Moving assistance" means assessing the need for, arranging for, making available assistance in locating other living arrangement, preparing for the move, and the actual moving of the client and their belongings to their new residence when such services are included in a plan of care that has the approval of the client's physician.

"Narcotic and drug abuse treatment" means narcotic and drug abuse treatment and counseling services provided in the home setting to the client, as part of the plan of care authorized by the client's physician.

"Personal care" means assistance in the home setting with daily living activities such as bathing, grooming, dressing, nutritional and dietary care, bowel and bladder control and care, ambulation/mobility, transfers and lifting, positioning and turning, exercising and range of motion, and assisting with medications that are normally self-administered. Personal care shall also include assisting with instrumental activities of daily living which are related to the well-being of the client such as maintaining a safe and sanitary environment (bedmaking, linen changing, cleaning and maintaining the client's immediate vicinity and frequently used areas), and escorting the client outside the home for errands and appointments. Also included in personal care are provision of emotional support and encouragement, taking vital signs, reporting observations, and maintaining health records. Personal care services are approved by the client's physician, supervised by a registered nurse, and are performed by a qualified individual who is not a member of the client's family.

"Plan of care" means a written plan based on the case management assessment that addresses identified client problems, and indicates goals or desired outcomes, the specific type and frequency of service(s), and the provider(s) of services for each problem. The plan of care is minimally reviewed every one hundred-eighty days, is agreed upon by the client and their physician, and is subject to approval by the Medicaid agency's representative.

"Respiratory therapy" means the performance of preventive, maintenance, and rehabilitative airway techniques and procedures in the home setting when included in the plan of care as authorized by the client's personal physician.

"Respite care" means the provision of temporary institutional, community or home-based services needed to allow the client's primary caregivers relief from these duties.

"Skilled nursing" means the provision of skilled nursing services including, but not limited to: observation and assessment of the client's changing condition; client education; skilled rehabilitation services; intravenous, intramuscular or subcutaneous injections and intravenous feedings; tube feedings; nasopharyngeal and tracheostomy aspiration; insertion and sterile irrigation and replacement of catheters;

application of dressings involving prescriptive medicines and aseptic techniques; treatment of extensive decubitus ulcers or other widespread skin disorders; heat treatments which have been specifically ordered by a physician as part of active treatment and which require observation by a nurse to adequately evaluate the client's progress; initial phases of a regimen involving administration of medical gases; and rehabilitation nursing procedures including the related teaching and adaptive aspects of nursing that are part of active treatment.

"Transportation services" means arranging for and providing necessary (non-medical) transportation to and from facilities, resources, and appointments in order to receive appropriate services as included in the client's plan of care as authorized by their physician. [Eff JUN 29 1992] (Auth: HRS §346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-3 Eligibility for services. (a) HIV community care program services shall be available to persons who are:

- (1) Eligible for federally-funded medical assistance;
- (2) Prior authorized at the acute level of care, or acuity level A or acuity level C by the department's medical consultant or appointed agent;
- (3) Diagnosed with HIV infection by their physician;
- (4) Able to receive care under the HIV community care program at an estimated or actual annual cost of client care not to exceed an expenditure ceiling established by the department;
- (5) Approved for HIV community care program care by their physician;
- (6) Provided with a written plan of care by a case manager that is authorized by the client's personal physician; and
- (7) Residing in a home equipped with a U.L. approved smoke detector, and with a means of unobstructed travel for the client to the outside of the dwelling at street or ground level.

(b) Continued eligibility for HIV community care program services shall be redetermined by the department or its agent according to the following schedule:

- (1) Eligibility for federally-funded medical assistance shall be verified monthly;
- (2) Level of care certification shall be redetermined a minimum of once every six months; and
- (3) Cost of care shall be itemized and determined once monthly. [Eff JUN 29 1992] (Auth: HRS §346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-4 Provision of services. (a) HIV community care program services shall include any service:

- (1) Approved by HCFA in the waiver program for the HIV community care program, such as case management, counseling and training, emergency alarm response system, home-delivered meals, intensive supervision of children in DHS foster care homes, medical day health, moving assistance, narcotic and drug abuse treatment, personal care, respiratory therapy, respite care, skilled nursing, and non-medical transportation; and
- (2) Included in the client's written plan of care.

(b) Provision of services shall be available to otherwise qualified individuals based on the conditions, as defined by HCFA, of the:

- (1) Waiver of statewideness; and
- (2) Waiver of comparability of services.

(c) Service provision shall be limited by the level of funding established by the legislature. [Eff JUN 29 1992] (Auth: HRS §346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-5 Exclusions of HIV community care program services. HIV community care program services shall not include any services provided during periods of time when the client has been admitted on an inpatient basis to either an acute care or long-term care facility. [Eff JUN 29 1992] (Auth: HRS §346-

14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-6 Contractors of HIV community care program services. (a) Contractors of HIV community care program services shall:

- (1) Meet applicable state and federal licensing and certification requirements; and
- (2) Comply with all applicable federal, state, and local laws, ordinances, rules, and regulations.

(b) Reimbursement for services shall be based on a negotiated rate between the department and contractor, and shall not exceed the aggregate amount in the agreement.

(c) The contractor's written agreement with the department shall be terminated when the contractor fails to comply with the terms stipulated in the agreement. [Eff JUN 29 1992] (Auth: HRS §346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-7 Payment for HIV community care program services. (a) The maximum payment for each client in the HIV community care program shall not exceed limits established by the department.

(b) Medicaid expenditures for periods of inpatient care in an acute care or long-term care facility shall not be computed into the annual cost of care for the client payable under the HIV community care program.

(c) The department shall pay for only those HIV community care program services identified in section 17-1442-4 and specified in the client's written plan of care. [Eff JUN 29 1992] (Auth: HRS §346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§§17-1442-8 to 17-1442-12 Reserved

§17-1442-13 Decrease or termination of services.

(a) Services to clients of the HIV community care program shall be decreased or terminated when:

- (1) Friends or relatives of the client express willingness and are able to care for the client without charge in lieu of program services; or
 - (2) The estimated or actual annual cost of the client's care exceeds the expenditure ceiling established by the department; or
 - (3) The contractor refuses to provide requested services; or
 - (4) The contractor agreement is terminated and no other options are available through contractual agreement.
- (b) Services to clients of the HIV community care program shall be terminated when:
- (1) The client no longer meets the eligibility criteria of section 17-1442-3; or
 - (2) The client or the person primarily responsible for the client's care requests termination from the program; or
 - (3) The client or the person primarily responsible for the client's care chooses institutional care in lieu of home and community-based services; or
 - (4) The case management staff determines that a regime of services which will assure the safety and well-being of the client at home cannot be provided by the program. Termination can occur after another feasible alternative has been arranged;
 - (5) The client leaves the state; or
 - (6) Client dies.
- (c) Services shall be terminated upon mutual agreement between the client and the department or its agent, or after a written notice has been given to the client declaring the department's or its agents' intent to terminate services. [Eff JUN 29 1992] (Auth: HRS §346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-14 Hearings and appeals. The procedures and provisions of departmental rules for the appeals process and fair hearing shall apply to applicants and clients of the HIV community care program when the department denies, suspends, decreases, or terminates services for any reason except for a change in state or federal law, termination of program approval by HCFA,

or lack of state or federal funding. [Eff JUN 29 1992
] (Auth: HRS §346-14; 42 C.F.R.
§440.180) (Imp: Pub. L. No. 99-509, §9411 (1986))

§17-1442-15 Authorization of services. The HIV
community care program is authorized by HCFA under the
Social Security Act (section 1915(C)) related to home
and community-based services waivers, and by the Hawaii
Revised Statutes. [Eff JUN 29 1992] (Auth: HRS
§346-14; 42 C.F.R. §440.180) (Imp: Pub. L. No. 99-
509, §9411 (1986))

