

HAWAII ADMINISTRATIVE RULES
TITLE 17
DEPARTMENT OF HUMAN SERVICES
SUBTITLE 12 MED-QUEST DIVISION
CHAPTER 1704
FRAUD PROVISIONS

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Historical Note: This chapter is based substantially upon chapter 17-1350 [Eff 6/29/92; R 08/01/94]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-1704-1 Purpose. The purpose of this chapter is to define conditions under which the department will investigate suspected fraud in medical assistance cases. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1704-2 Definitions. As used in this chapter:

"Fraud" means the knowing and willful making or causing a making by any person in the medical assistance program of any false statement, misrepresentation, concealment and failure to disclose material fact in any application for benefits or payment for furnishing services or supplies for the purpose of:

- (1) Obtaining greater compensation than the person is legally entitled to;
- (2) Obtaining authorization for furnishing services or supplies;
- (3) Providing or receiving health care services where the recipient is not legally entitled to medicaid; or
- (4) Presenting a claim for services not provided.

If any of the conditions exist, then there is fraud whether or not any payment is actually received from the Hawaii medical assistance program. For purposes of the chapter, fraud may exist whether or not judgment has been made by a court of this State having jurisdiction over criminal matters. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §431.10)

SUBCHAPTER 2

RECIPIENT FRAUD

§17-1704-3 Investigation of suspected fraud. (a)

The department shall identify situations in which there are questions of suspected fraud such as, but not limited to, a recipient receiving medical assistance to which the individual is not entitled through willful misrepresentation of circumstances or the intentional concealment of information from the department.

(b) The DHS investigations office shall investigate suspected fraud and refer these cases to law enforcement officials.

(c) The methods of investigation shall not infringe on the legal rights of the persons involved and shall afford these individuals due process of law. [Eff 08/01/94] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: 42 C.F.R. §§455.13, 455.14, 455.15, 455.16)

§17-1704-4 Penalty. The department may initiate

referral for prosecution of an individual suspected of fraud. In addition, the individual may be subject to any other criminal, civil, or administrative sanction authorized by law. [Eff 08/01/94] (Auth: HRS §346.14; 42 C.F.R. §431.10) Imp: 42 C.F.R. §§455.15, 455.16)

SUBCHAPTER 3

PROVIDER FRAUD

§17-1704-5 Preliminary investigation. (a) DHS shall conduct a preliminary investigation of all medicaid fraud complaints from whatever sources received to determine whether there is sufficient basis to warrant a full investigation.

(b) If the findings of the preliminary investigation indicate there is potential for criminal prosecution of fraud, the cases shall be referred to the medicaid fraud control unit. [Eff 08/01/94] (Auth: HRS §346-14; 42 C.F.R. §§431.10, 455.14) (Imp: 42 C.F.R. §§455.13, 455.14)

§17-1704-6 Resolution of investigation. A full investigation shall continue until:

- (1) Appropriate criminal or civil legal action is initiated;
- (2) The matter is resolved between the department and the provider through any one or appropriate combination of the following actions:
 - (A) A monitoring program of provider's medicaid practice is established to ensure corrective measures have been introduced;
 - (B) A demand letter is sent to the provider requiring repayment of overpayments to the provider made by the medical assistance program and warning the provider that payment on that provider's pending claims may be withheld in part or in whole to be applied to overpayments previously made to the provider by the medical assistance program;

- (C) All claims of a provider are placed on review prior to payment;
- (D) In the event that the department is unable to determine whether the actions of a provider constitute improper medical practice, the department requests an opinion of the Hawaii Medical Association peer review committee; and
- (E) The provider is suspended or terminated from participation in the medical assistance program as described in sections 17-1736-17 and 17-1736-18. [Eff 08/01/94] (Auth: HRS §346-14; 42 C.F.R. §431.10) (Imp: 42 C.F.R. §§455.13, 455.14, 455.15, 455.16)

