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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12 MED-QUEST DIVISION

CHAPTER 1713

NOTICE OF ADVERSE ACTION

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§17-1713-1 Purpose. The purpose of this chapter is to establish the circumstances, conditions, and deadlines under which the department shall notify the recipient of action taken to terminate, suspend, reduce, withhold, or restrict benefits or increase the recipient's spenddown or premium-share amounts. [Eff 8/01/94; am 03/30/96] (Auth: HRS §346-14) (Imp: HRS §346-12; 42 C.F.R. §431.200)

§17-1713-2 Definitions. As used in this chapter: "Adequate notice" means a written notice that includes:

- (1) A statement of the action the department has taken or intends to take;
- (2) The reason for the intended action;
- (3) The specific departmental rule supporting the action;
- (4) The household's right to request a hearing;
- (5) The name of the person to contact for additional information;
- (6) The availability of continued benefits;
- (7) The liability of the household for any overpayments received while awaiting a hearing if the hearing official's decision is adverse to the household; and
- (8) The availability of free legal representation, if applicable.

The notice may be received prior to department action,

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at the time reduced benefits are received, or if benefits are terminated, at the time benefits would have been received if they had not been terminated.

"Mass change" means a change initiated by the state or federal government which affects the eligibility criteria of the entire caseload or a significant and identifiable portion of the caseload.

"Notice of adverse action" means an adequate and timely advance notice which shall be sent to a recipient to inform them of action planned to reduce or terminate benefits within a certification period.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: 42 C.F.R. §431.201)

§17-1713-3 Notice of adverse action. (a) Prior to the action to reduce, terminate, suspend, withhold, or restrict medical assistance or increase the spenddown or premium-share amounts, the department shall provide the recipient with timely and adequate notice before the adverse action is taken.

(b) The notice of adverse action shall be considered timely when the department mails the notice at least ten days prior to the effective date of action. When the department obtains facts indicating need for the action because of probable fraud, the department shall mail a written notice at least five days before the effective date of action. If the notice period ends on a weekend or holiday and a request for a hearing and continuation of benefits is received the day after the weekend or holiday the request shall be considered timely.

(c) Timely notice shall not be required in the following circumstances but adequate notice shall be sent not later than the date of action:

- (1) The department has verified the death of a recipient;
- (2) The department has received a clear written statement signed by a recipient that:
 - (A) The recipient no longer wishes assistance; or
 - (B) Provides information which necessitates termination or reduction of assistance and indicates that the recipient understands the consequences of supplying the information shall be reduction or termination of assistance;
- (3) The recipient has been admitted or committed to a public institution;

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- (4) The recipient has been placed under skilled nursing care, intermediate care, or long-term hospitalization;
 - (5) The recipient's whereabouts are unknown and mail sent to the recipient has been returned by the post office indicating no known forwarding address. When mail is returned, both timely and adequate notice shall be issued only when the recipient has provided the department with a new address;
 - (6) The recipient has been accepted for assistance in another state and this fact has been established by the department; or
 - (7) A change in the level of medical care is prescribed by the recipient's physician.
- (d) Timely and adequate notice shall be given when automatic grant adjustments for classes of recipients are made due to changes in state or federal law. The notice shall be adequate if it includes a statement of:
- (1) The intended action;
 - (2) Reasons for the intended action;
 - (3) The specific change in law requiring the action; and
 - (4) The circumstances under which a hearing may be obtained and assistance may be continued.
- [Eff 08/01/94; am 01/29/96;
am 03/30/96] (Auth: HRS §346-14)
(Imp: HRS §346-12; 42 C.F.R. §§431.210,
431.211, 431.213, 431.214)

§17-1713-4 Termination of benefits. (a) Benefits shall be terminated effective the first day of the month following the month in which the recipient is found to be ineligible if the conditions of adverse notice are met.

- (b) Benefits shall be terminated when:
- (1) The equity value of the recipient's nonexempt assets exceeds the department's asset limit;
 - (2) The recipient's countable income exceeds the recipient's needs according to the department's applicable standard of assistance;
 - (3) The recipient is admitted to a public institution;
 - (4) The recipient's whereabouts are unknown;
 - (5) The recipient fails to meet any one of the necessary requirements of eligibility

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- (6) An eligibility redetermination is not completed because of the recipient's failure to provide the department with requested verification or to provide a completed eligibility redetermination form;
- (7) A signed, written request for termination is received from the recipient;
- (8) The recipient fails to cooperate or provide information to federal or state personnel who review the decisions regarding eligibility for assistance;
- (9) The recipient fails to provide verification necessary to determine continued eligibility;
- (10) The department has verified the death of a recipient;
- (11) The recipient, who is required to meet the asset standard, fails to apply for and develop potential sources of assets and fails to provide the department with verification to determine the amount of the asset; or
- (12) The recipient fails to apply for and develop potential sources of income and fails to provide the department with verification to determine the amount of the income.

[Eff 08/01/94; am 01/29/96; am 10/26/01] (Auth: HRS §346-14) (Imp: HRS §§346-14; 42 C.F.R. §§435.902, 435-916, 435-930.)