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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12 MED-QUEST DIVISION

CHAPTER 1714

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-1714-1 Purpose. The purpose of this chapter is to establish the non-financial general eligibility requirements related to rights, identity, age, furnishing of social security number, residency, institutional status, citizenship, and income eligibility verification requirements for the medical assistance programs. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1714-2 Definitions. As used in this chapter: "Basic Health Hawaii" means the State funded medical assistance program for aliens age nineteen years and older who are citizens of a COFA nation, or legal permanent residents who have resided in the United States for less than five years.

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"Beneficiary data exchange system (BENDEX)" means an automated exchange system in which the SSA transmits social security beneficiary data to the department.

"COFA nation" means the Federated States of Micronesia, Republic of the Marshall Islands, or Republic of Palau, which have entered into Compacts of Free Association with the United States that allow citizens of these nations to travel, work, and reside in the United States without visa requirements or durational limits. Citizens of these nations do not meet the definition of a qualified alien. The Compacts do not include any agreement regarding the provision of medical care or medical assistance by a state.

"DRA" means the Deficit Reduction Act of 2005 enacted on February 8, 2006.

"Federal medical assistance" means medical assistance in accordance with the State plan under Title XIX or Title XXI, or in accordance with a demonstration under Title XI of the Social Security Act.

"INA" means the Immigration and Nationality Act (8 U.S.C. §§1101, et seq.).

"Income eligibility verification system (IEVS)" means a system of information acquisition and exchange for purposes of income and eligibility verification which meets the requirements of section 1137 of the Social Security Act (42 U.S.C. §1320b-7).

"Individual" means an applicant for or recipient of medical assistance.

"Ineligible alien" means an individual whose alien status makes the individual ineligible for assistance.

"INS" means the United States Department of Justice, Immigration and Naturalization Service.

"Institution for mental disease" means an institution which is primarily engaged in providing diagnosis, treatment, or care of persons with mental disease, including medical attention, nursing care, and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.

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"Institution for the mentally retarded" means an institution (or distinct part of an institution) that:

- (1) Is primarily for the diagnosis, treatment, or rehabilitation of the mentally retarded or persons with related conditions; and
- (2) Provides, in a protected residential setting, ongoing evaluation, planning, twenty-four hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at their greatest ability.

"Institution for tuberculosis" means an institution that is primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis, including medical attention, nursing care, and related services. Whether an institution is an institution for tuberculosis is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of tuberculosis, whether or not it is licensed as such.

"Long-term care facility" means a medical institution such as a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, or any combination thereof, that furnishes health care services to inpatients.

"Medical institution" means an institution which:

- (1) Is organized to provide medical care, including nursing and convalescent care;
- (2) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of the patients on a continuing basis in accordance with accepted standards;
- (3) Is authorized under State law to provide medical care; and
- (4) Is staffed by professional personnel who have clear and definite responsibilities to the institution in the provision of professional medical and nursing services including adequate and continual medical care and supervision by a physician; sufficient registered nurse or licensed practical nurse supervision and services and nurse aid services to meet nursing care needs; and appropriate guidance by a physician on the

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professional aspects of operating the facility.

"Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. Examples include, but shall not be limited to, jails, prisons, and correctional facilities.

"Qualified alien" means:

- (1) An alien who is lawfully admitted as a permanent resident under the INA (8 U.S.C. §1101 et seq);
- (2) An alien who is granted asylum under section 208 of the INA (8 U.S.C. §1158);
- (3) A refugee admitted to the United States under section 207 of the INA (8 U.S.C. §1157);
- (4) An alien who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. §1182(d)(5)) for a period of at least one year;
- (5) An alien whose deportation is withheld under section 243(h) of the INA (8 U.S.C. §1253) or section 241 of the INA (8 U.S.C. §1231);
- (6) An alien who is granted conditional entry under section 203(a)(7) of the INA (8 U.S.C. §1153(a)(7)) as in effect before April 1, 1980;
- (7) An alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Educational Assistance Act of 1980); and
- (8) An alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, and has been approved for or has a petition pending to be granted status by INS as a battered spouse, a child, or a parent of a battered child under clauses (ii), (iii) and (iv) of section 204(a)(1)(A) or clauses (ii) and (iii) of section 204(a)(1)(B) of the INA.

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"SSA" means the Social Security Administration of the United States Department of Health and Human Services.

"SSI" means supplemental security income made in the form of monthly cash payments by the SSA.

"SSN" means social security number issued by the SSA.

"State data exchange system (SDX)" means an automated exchange system in which the SSA transmits information on all persons currently receiving SSI benefits to the department.

"State medical assistance" means state funded medical assistance provided to eligible individuals through the QUEST, QUEST Expanded Access, QUEST-Net, QUEST-ACE, fee-for-service and SHOTT programs who are not eligible for federal medical assistance.

"Third party query (TPQY) request" means a manual system in which the department requests SSA beneficiary or SSI information from the SSA.

"U.S." means the United States of America.

[Eff 08/01/94; am 01/29/96; am 05/17/97; am 12/27/97; am 07/10/06; am 09/10/09; am 04/01/10] (Auth: HRS §346-14) (Imp: HRS §346-14; 8 U.S.C. §1641)

§17-1714-3 Right to assistance. (a) The department shall provide medical assistance to any individual or family who meets all of the eligibility conditions set forth by the rules of the department.

(b) The department shall not provide assistance to any individual or family who fails to provide verification of all eligibility conditions or fails to meet all the conditions of eligibility set forth by the rules of the department.

(c) Persons who are eligible for or receiving financial assistance from the department shall receive medical assistance, unless determined ineligible for medicaid coverage due to the individual or family's failure to comply with a medicaid requirement.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1714-4 Determination of identity. (a) The identity of family members shall be established by the

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provision of documentation required by the DRA prior to the approval of assistance. Individuals who are exempt from the documentation provisions of the DRA are:

- (1) Children in receipt of services or benefits under title IV-B or title IV-E of the Social Security Act;
- (2) Individuals entitled to or enrolled in Medicare;
- (3) Individuals in receipt of disability benefits under title II of the Social Security Act; and
- (4) SSI recipients.

(b) The identity of an individual shall be verified through documentary evidence including, but not limited to, the following documents:

- (1) U.S. passport;
- (2) Certificate of Naturalization (Forms N-550 or N-570);
- (3) Certificate of U.S. citizenship (Forms N-560 or N-561);
- (4) Cross-match with a federal or state governmental, public assistance, law enforcement, or corrections agency's data system;
- (5) State identification card or current state driver's license or permit with the individual's photo or containing other identifying information such as name, age, sex, race, height, weight, or eye color;
- (6) Identification card issued by the federal, state, or local government with the same information included on driver's licenses;
- (7) School identification card with a photo of the individual;
- (8) U.S. military card, draft record, or military dependent's identification card;
- (9) U.S. coast guard merchant mariner card;
- (10) Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native tribal document with a photograph or other personal identifying information relating to the individual such as age, weight, height, race, sex, and eye color; or
- (11) Affidavits signed under penalty of perjury

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by a parent, guardian, or caretaker relative attesting to the child's identity if no other document such as a school identification card or a driver's license is available for children under age eighteen.

(c) Three or more documents that together reasonably corroborate the identity of an individual provided such documents have not been used to establish the individual's citizenship and the individual submitted second or third tier evidence of citizenship providing:

- (1) There are no other evidence of identity is available to the individual prior to accepting such documents;
- (2) The document must contain the individual's name, plus any additional information establishing the individual's identity;
- (3) All documents must contain consistent identifying information which reasonably establishes the individual's identity shall be accepted, such as, but not limited to:
 - (A) Employer ID card;
 - (B) High school or college diploma from accredited institutions, including general education and high school equivalency diploma;
 - (C) Marriage certificate;
 - (D) Divorce decree; or
 - (E) Property deeds/titles.

(d) Individuals in a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, or any combination thereof, may have their identity attested to by the facility director or administrator under penalty of perjury when the individual does not have, or cannot get any documents on the preceding list. [Eff 08/01/94; am 06/19/00, am 07/10/06; am 09/10/09] (Auth: HRS §346-14) (Imp: HRS §346-71; 42 C.F.R. §§435.401, 435.407, 435.510; 42 U.S.C. §1396b(x); 42 U.S.C. §1320b-7(d))

§17-1714-5 Determination of age. (a)
Verification of an individual's age shall be required when age is a factor in determining eligibility for

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assistance or exemption from a program or work requirement.

(b) The primary documentary source for establishing the age of an individual shall be a birth certificate.

(c) When the individual does not have a birth certificate, other documents may be used, such as, but not limited to:

- (1) Baptismal certificate;
- (2) School record;
- (3) Marriage record; (4) Passport;
- (4) Military record; or
- (5) Social service agency record.

(d) When documentary sources are not available, the following shall be acceptable verification:

- (1) Statements of relatives or friends who are knowledgeable of the individual's circumstances. The case record shall contain documentation of the:
 - (A) Name of the relatives or friends; and
 - (B) Facts on which the relatives' or friends' knowledge is based; or
- (2) SSA determination of age established for SSI or social security benefits.

(e) When all reasonable efforts to establish age have failed, an estimate of age based upon an examination by a physician shall be used.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS § 346-14; 42 C.F.R. §§435.401, 435.520)

§§17-1714-6 to 17-1714-10 (Reserved).

SUBCHAPTER 2

SOCIAL SECURITY NUMBER

§17-1714-11 Purpose. The purpose of this subchapter is to establish the social security number requirement for the medical assistance program.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

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§17-1714-12 Furnishing a social security number.

(a) Each individual whose needs, income, or assets are considered in determining eligibility or the amount of assistance shall be required to furnish to the department a SSN.

(b) If the individual cannot furnish an SSN because an SSN has not been issued or is not known, the individual shall apply for a SSN from SSA.

(c) Individuals applying for a SSN shall submit proof to the department that an application to SSA was made and shall be required to report the SSN to the department immediately upon receipt of the SSN.

(d) If the individual applies for a SSN and SSA rejects the application, the individual shall be deemed to have met the requirement of applying for a SSN.

(e) If the individual has more than one SSN, all SSNs shall be submitted to the department.

(f) If the individual applying for a SSN is unable to obtain the documents required by SSA, the department shall make every effort to assist the individual in obtaining the documents.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-71; 42 C.F.R. §435.910)

§17-1714-13 Participation pending receipt of SSN.

(a) The department shall not deny, delay, or discontinue assistance or certification pending the issuance or verification of a SSN if the individual has complied with section 17-1714-12.

(b) The individual shall be required to report the SSN to the department immediately upon receipt.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-71; 42 C.F.R. §435.910)

§17-1714-14 Verification of SSN. (a) The department shall verify the SSN reported by the family by submitting the SSN and identifying information to SSA for verification according to procedures established by SSA under the income and eligibility verification system.

(b) Once a SSN has been verified, the department

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shall make a permanent annotation to its file to prevent the unnecessary reverification of the SSN.

(c) The department shall accept as verified a SSN which has been:

- (1) Verified by another program participating in the income eligibility verification system;
- (2) Provided directly to the department by SSA; or
- (3) Provided directly to the department by another federal or federally assisted benefit program which has received the number from SSA or has submitted the SSN to SSA for verification. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-71; 42 C.F.R. §§435.10, 435.920)

§17-1714-15 Disqualification. Any individual who fails to obtain or furnish a SSN to the department shall be disqualified from receiving assistance. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: 42 C.F.R. §435.910)

§17-1714-16 Requirements for SSN and use of SSN.

(a) The department shall notify the applicant or recipient that the furnishing of a SSN is a condition of eligibility for the following federally funded programs:

- (1) AFDC;
- (2) QUEST; and
- (3) Medical assistance to aged, blind and disabled individuals.

(b) The department shall notify the applicant or recipient that the SSN shall be used in the administration of the program to:

- (1) Verify income, eligibility, and benefits through computer matches authorized under the income and eligibility verification systems for the programs identified in subsection (a); and
- (2) Complete computer matching to prevent duplicate participation or assistance, to facilitate mass changes in federal benefits, and to verify the accuracy and reliability

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of the information provided by the household.
(c) To the extent determined necessary by the United States Department of Health and Human Services (USDHHS), the department shall have access to information regarding applicants and recipients who receive SSI benefits under Title XVI of the Social Security Act, (42 U.S.C. §§1381-1383), to determine the household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefits of the household. The department shall use the SDX to the maximum extent possible.
[Eff 08/01/94; am 01/29/96] (Auth: HRS §346-14)
(Imp: 42 C.F.R. §435.910)

§§17-1714-17 to 17-1714-20 (Reserved).

SUBCHAPTER 3

RESIDENCY AND INSTITUTIONAL STATUS

§17-1714-21 Purpose. The purpose of this subchapter is to establish the residency requirements for applicants and recipients residing in the community or in an institution to receive medical assistance.
[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1714-22 Residency requirements. (a)
Residents of the State are individuals who:
(1) Live voluntarily in Hawaii with the intent to remain permanently or indefinitely;
(2) Reside in Hawaii and for whom an adoption assistance agreement is in effect under Title IVE of the Social Security Act, without regard to the state which entered into the agreement with individual;
(3) Reside in Hawaii and receive Title IVE foster care maintenance payments, without

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- regard to the state which makes the payment;
or
- (4) Receive state supplemental payments (SSP) under the supplemental security income (SSI) program.
 - (b) The department may have a written agreement with another state setting forth rules and procedures to resolve disputes involving place of residency.
 - (c) An individual retains residence in a given state until the individual abandons residence, such as but not limited to:
 - (1) Voluntarily indicating intent not to return at the point of or after leaving the state;
 - (2) Requesting to vote in another state or jurisdiction; or
 - (3) Declaring and paying taxes as a resident of another state.
 - (d) A resident who is eligible for medical assistance and who is temporarily absent from the State with the intention of returning to Hawaii when the purpose of the absence has been accomplished, does not interrupt a resident's State residency. Within ninety days of the date of departure, the department shall re-evaluate the individual's intent to return to the State.
 - (1) Notify the department of any intended out-of-state visit prior to the date of the individual's departure and inform the department of their date of departure and the date they intend to return to Hawaii; and
 - (2) Notify the department of their intended date of return to Hawaii if the date of return is extended beyond the date initially reported.
 - (e) The state of residency for institutionalized individuals who:
 - (1) Become incapable of indicating intent before age twenty-one is that of the:
 - (A) Individual's parents or guardian, if one has been appointed; or
 - (B) Parent applying for medical assistance on the individual's behalf if the parents reside in separate states and there is no appointed legal guardian;
 - (2) Become incapable of indicating intent at or

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after age twenty-one is the state in which the individual was residing when the individual became incapable of indicating intent; or

- (3) Are over twenty-one, in all other cases, is the state where the individual is living with intention to remain permanently or indefinitely.

(f) For purposes of subsection (e), an individual is considered incapable of indicating intent when:

- (1) The individuals' IQ is forty-nine or less, or has a mental age of seven or less, based on tests acceptable to the mental retardation agency of the State;
- (2) The individual is judged legally incompetent; or
- (3) Medical documentation, or other documentation acceptable to the department, supports a finding that the individual is incapable of indicating intent.

(g) Medical assistance shall be provided to residents temporarily absent from the state who:

- (1) Meet all the conditions of eligibility for medical assistance as specified in the department's rules; and
- (2) Require medical services outside the State under circumstances where services were emergent or when it would have been impractical to return to Hawaii for the necessary medical services. [Eff 08/01/94; am 02/10/97; am 12/27/97] (Auth: HRS §346-14) (Imp: 42 C.F.R. §435.403; 42 U.S.C. §1396a(a))

§17-1714-23 Eligibility requirements for residents of public institutions. (a) The following individuals shall not be eligible for medical assistance:

- (1) An inmate in a public institution; and
- (2) A resident or patient in an institution for mental disease or tuberculosis.

(b) An individual may be eligible for medical assistance if the individual has been paroled from a public institution or is on conditional release or

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convalescent leave from an institution for mental disease or tuberculosis.

(c) An inmate of a public institution may apply for medical assistance but assistance shall not begin until the inmate has left the institution.

(d) An individual shall not be considered an inmate of a public institution when the individual is in a public educational or vocational training institution for purposes of securing education or vocational training.

(e) An inmate of a public institution who is age sixty-five or older, or under age sixty-five and meets the categorical eligibility requirements for a blind or disabled individual, a pregnant woman, or an individual under nineteen years of age, may be eligible, provided all other requirements are met, for inpatient services that are provided in a medical institution that is not located on the grounds of the public institution. [Eff 08/01/94, am 09/10/09

] (Auth: HRS §346-14) (Imp: HRS §346-29; 42 C.F.R. §§435.406, 435.407, 42 U.S.C. 1396d)

§17-1714-24 Medical assistance from another state. A person receiving medical assistance from another state shall be considered a resident of Hawaii from the date of arrival in Hawaii. Eligibility for medical assistance only from the State of Hawaii shall be determined from the date residency is established. [Eff 01/29/96] (Auth: HRS §346-53) (Imp: HRS §346-29; 42 C.F.R. §§435.731, 435.831, 435.851)

§§17-1714-25 to 17-1714-26 (Reserved).

SUBCHAPTER 4

CITIZENSHIP AND ALIEN STATUS

§17-1714-27 Purpose. The purpose of this subchapter is to establish the citizenship and alienage requirements an individual or family shall meet to be eligible for medical assistance.

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[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1714-28 Citizens and aliens. (a) In order to receive federal medical assistance, an otherwise eligible individual shall be:

- (1) A citizen of the United States which shall include the fifty states, the District of Columbia, Puerto Rico, Guam, American Virgin Islands, and the Northern Mariana Islands;
- (2) A national from American Samoa or Swain's Island;
- (3) An alien who meets the definition of a qualified alien;
- (4) An alien who entered the United States prior to January 1, 1972, or any date required by law, and has continuously maintained residency in the United States under section 249 of the INA (8 U.S.C. §1259);
- (5) An alien who meets the qualifications of an Amerasian pursuant to 8 U.S.C. §1612;
- (6) An alien who is a veteran or active on duty pursuant to 8 USC §1612;
- (7) An American Indian born in Canada or who is a member of a Indian tribe described in 25 U.S.C. §450e(b); or
- (8) A citizen of a COFA nation who is under age nineteen years, or is pregnant.

(b) The following aliens shall be excluded from receiving federal medical assistance, except for emergency services as described in chapter 1723:

- (1) Aliens lawfully admitted for a temporary or specified time period as legal non-immigrants such as:
 - (A) Visitors;
 - (B) Tourists;

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- (C) Diplomats; and
 - (D) Students who enter the United States temporarily with no intention of abandoning residence in a foreign country;
- (2) Aliens who were never legally admitted to the United States for any period of time, or were admitted for a limited time and did not leave when the time expired;
 - (3) Aliens who are not qualified aliens;
 - (4) Aliens unable to furnish the required identification. These aliens shall be advised that upon presentation of the proper documentation, the alien shall be eligible to apply for assistance; and
 - (5) Citizens of a COFA nation age nineteen years and older who are not pregnant.
- (c) Citizens of a COFA nation age nineteen years and older who are not pregnant are eligible for state medical assistance provided they:
- (1) Were determined eligible, based on the requirements as described in chapters 17-1721, 17-1721.1, 17-1726, 17-1727, 17-1728, 17-1728.1, 17-1730, 17-1732, 17-1733, and 17-1737 except for citizenship; and
 - (2) Continue to meet those eligibility requirements.
- (d) Citizens of a COFA nation age nineteen years and older and not pregnant shall be ineligible for state medical assistance if the eligibility determination was made on or after the first day of the month prior to the implementation of the Basic Health Hawaii program.
- (e) The state medical assistance program shall terminate on the day prior to the implementation date of Basic Health Hawaii under chapter 17-1722.3. Upon termination of the state medical assistance program, all enrollees shall be disenrolled. [Eff 08/01/94;

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am 05/17/97; am 07/10/06; am 04/01/10]
(Auth: HRS §346-14) (Imp: HRS §346-71; 42 C.F.R.
§435.406; 42 U.S.C. §1320b-7(d))

§17-1714-29 REPEALED. [Eff 08/01/94;
R 05/17/97]

§17-1714-30 Declaration of citizenship and alienage. (a) One adult member shall sign the declaration statement for the SAVE program attesting, under penalty of perjury, whether the individuals in the household are citizens or nationals of the United States or the individuals are qualified aliens and the department shall document each individual's citizenship at the household's initial application and at each subsequent eligibility review. The signature of one adult member at the time of the household's eligibility review is needed to cover any new members that may have been added to the household since the completion of the household's last declaration.

(b) One adult caretaker shall sign on behalf of applicant or recipient children. [Eff 08/01/94; am 01/29/96; am 05/17/97; am 09/10/09] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §§435.406, 435.407; 42 U.S.C. §1320b-7; Pub. L. 103-432)

§17-1714-31 Documentation of citizenship. (a) The department shall require documentation of citizenship that meet the requirements of the DRA prior to the approval of assistance. Individuals who are exempt from the documentation provisions of the DRA are:

- (1) Children in receipt of services or benefits under Title IV-B or title IV-E of the Social Security Act;
 - (2) Individuals entitled to or enrolled in Medicare;
 - (3) Individuals in receipt of disability benefits under Title II of the Social Security Act;
- and

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- (4) SSI recipients.
- (b) Acceptable forms of documentation of citizenship include, but shall not be limited to:
 - (1) U.S. passport;
 - (2) Certificates of U.S. citizenship (Forms N-560 or N-561);
 - (3) Certificates of naturalization (Forms N-550 or N-570);
- (c) If primary documentation of citizenship is unavailable, acceptable forms of secondary documentation of citizenship include, but shall not be limited to a:
 - (1) U.S. public birth certificate showing birth in:
 - (A) One of the fifty states;
 - (B) The District of Columbia;
 - (C) Guam (if born on or after April 10, 1899);
 - (D) American Samoa;
 - (E) Swain's Island;
 - (F) Puerto Rico:
 - (i) If born on or after January 13, 1941;
 - (ii) Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession, or Puerto Rico on January 13, 1941; or
 - (iii) Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.
 - (G) U.S. Virgin Islands:
 - (i) If born on or after January 17, 1917);
 - (ii) Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession, or the U.S. Virgin Islands on February 25, 1927;
 - (iii) The applicant's statement indicating residence in the U.S.

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- Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession, or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or
- (iv) Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or Territory, or the Canal Zone on June 28, 1932.
- (H) The Northern Mariana Islands
- (i) If born on or after November 4, 1986 (NMI local time);
 - (ii) Evidence of birth in the Northern Mariana Islands, Trust Territory of the Pacific Islands citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986 (NMI local time) and the applicant's Statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time);
 - (iii) Evidence of Trust Territory of the Pacific Islands citizenship, continuous residence in the Northern Mariana Islands since before November 3, 1981 (NMI local time) voter registration before January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time); or
 - (iv) Evidence of continuous domicile in the Northern Mariana Islands since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time).

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- (2) Certification of report of birth (Form DS-1350);
- (3) Report of birth abroad of a U.S. citizen (Form FS-240);
- (4) Certification of birth issued by the Department of State (Forms FS-545 or DS-1350);
- (5) U.S. citizen identification card (Forms I-179 or I-197);
- (6) Northern Mariana identification card (Form I-873);
- (7) American Indian Card issued by the Department of Homeland Security with the classification code "KIC" (Form I-872);
- (8) Final adoption decree with child's name and U.S. place of birth;
- (9) Evidence of U.S. civil service employment by the U.S. government before June 1, 1976;
- (10) U.S. military record of service showing a U.S. place of birth (Form DD-214) or similar official document;
- (11) Verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database for naturalized citizens; or
- (12) Child Citizenship Act whereby adopted or biological children born outside the U.S. may establish citizenship obtained automatically under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431).

(d) If secondary documentation of citizenship is unavailable, acceptable forms of third level of evidence of citizenship shall be used only when the applicant or recipient alleges being born in the U.S., and includes, but shall not be limited to:

- (1) An extract of an official hospital record on hospital letterhead established at the time of the person's birth that was created five years before the initial application date and that indicates a U.S. place of birth which is not a souvenir birth certificate.
- (2) A life, health, or other insurance record showing a U.S. place of birth that was created at least five years before the

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initial application date that indicates a U.S. place of birth.

- (3) A religious official record recorded with the religious organization in the U.S. within 3 months of birth showing the birth occurred in the U.S. with either the date of the birth or the individual's age at the time the record was made.
- (4) An early school record showing a U.S. place of birth with the name of the child, the date of admission to the school, the date of birth, a U.S. place of birth, and the name(s) and place(s) of birth of the applicant's parents.

(e) If third level of evidence of citizenship is unavailable, acceptable forms of fourth level of evidence of citizenship shall be used only in the rarest of circumstances when the applicant or recipient alleges being born in the U.S., and includes, but shall not be limited to:

- (1) A Federal or State census record showing U.S. citizenship or a U.S. place of birth.
- (2) One of the following documents that show a U.S. place of birth and was created at least five years before the date of application:
 - (A) Seneca Indian tribal census.
 - (B) Bureau of Indian Affairs tribal census records of the Navajo Indians.
 - (C) U.S. state vital statistics official notification of birth registration.
 - (D) A delayed U.S. public birth record that is recorded more than five years after the person's birth.
 - (E) Statement signed by the physician or midwife who was in attendance at the time of birth.
 - (F) The Roll of Alaska Natives maintained by the Bureau of Indian Affairs.
- (3) Institutional admission papers from a nursing facility, skilled care facility or other institution created at least five years before the initial application date that indicates a U.S. place of birth which includes biographical information for the person including a U.S. place of birth.

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- (4) Medical (clinic, doctor, or hospital) record created at least five years before the initial application date that indicates a U.S. place of birth which includes biographical information for the person including a U.S. place of birth.

(f) Written affidavits should only be used in rare circumstances such as when an individual is homeless, a victim of amnesia, mentally impaired, or physically incapacitated, and who lacks someone who can act on their behalf, and cannot provide documentation of citizenship. If the documentation requirement needs to be met through affidavits, the following conditions shall apply to the affidavits:

- (1) There must be at least two affidavits by two individuals who have personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship.
- (2) At least one of the individuals making the affidavits cannot be related to the applicant or recipient. Neither of the individuals making the affidavit can be the applicant or recipient.
- (3) Persons making the affidavit must be able to prove their own citizenship and identity.
- (4) If individuals making the affidavits have information which explains why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be readily obtained, the affidavit should contain this information as well.
- (5) The State must obtain a separate affidavit from the applicant or recipient or other knowledgeable individual, guardian or representative explaining why the evidence does not exist or cannot be obtained.
- (6) The affidavits must be signed under penalty of perjury and need not be notarized.

(g) Assistance to the family members who meet the citizenship documentation requirements shall not be delayed for lack of documentation of citizenship of an individual if the rest of the family meets all other eligibility criteria provided:

- (1) The individual who fails to provide documentation of citizenship shall be ineligible;

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- (2) If the ineligible individual is the spouse, parent or legal guardian of another family member, until documentation of U.S. citizenship is obtained, that individual's income and assets shall be considered available to the remaining family members for the medical assistance program; and
- (3) If the ineligible individual is under age nineteen, their income and resources shall not be considered in the determination of eligibility for the remainder of the household. This individual shall not be included in the household count.
[Eff 08/01/94; am 01/29/96; am 05/17/97; am 06/19/00; am 07/10/06; am 09/10/09
] (Auth: HRS §346-14) (Imp: HRS §346-14; 7 C.F.R. §§273.2(f), 273.11(d); 42 C.F.R. §§435.406, 435.407; 42 U.S.C. §1320b-7)

§17-1714-32 Verification of alien status. (a)
The department shall verify the alien status of each applicant and recipient. Applicants and recipients shall provide verification for each alien member as follows:

- (1) Aliens lawfully admitted for permanent residence shall present INS form I-151 or I-551 or other documents which identify the aliens' immigration status and which the department determines are reasonable evidence of the aliens' immigration status;
- (2) Aliens permanently residing in the United States under conditional residence shall present INS form I-94, court order, grant letter, or other documents which identify the aliens' immigration status and which the department determines are reasonable evidence of the aliens' immigration status. The form I-94 shall be acceptable verification if it is annotated with:
 - (A) Section 203(a)(7), section 207, section 208, section 212(d)(5), or section 243(h) of the INA; or
 - (B) One of the following terms or a combination of the following terms:

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- (i) Refugee;
- (ii) Parolee or paroled;
- (iii) Conditional entrant or entry;
- (iv) Asylum;
- (v) Battered or abused individual;
- (vi) American Indian born in Canada or a recognized tribe;
- (vii) Amerasian; or
- (viii) Military veteran or active duty personnel and dependents.

(b) When the INS form does not bear an acceptable annotation and the alien has no other verification of alien classification in the alien's possession, the department shall advise the alien to submit form G-641, Application for Verification of Information from INS Records, to INS. The department shall accept form G-641 when presented by the alien and properly annotated at the bottom by the INS representative as evidence of lawful admission. The alien shall also be advised of the following:

- (1) The classifications under sections of the INA that shall result in eligible status;
- (2) The alien may be eligible if acceptable verification is obtained;
- (3) The alien may contact the INS or otherwise obtain the necessary verification, or if the alien wishes and signs a written consent, the department shall contact INS to obtain clarification of the alien's status; and
- (4) If the alien does not wish to contact the INS, the family shall be given the option of withdrawing the application or participating without that individual.

(c) When an alien is unable to provide any INS document, the department shall not be responsible for contacting INS on the alien's behalf. The department shall contact INS when the alien has an INS document that does not clearly indicate eligible or ineligible alien status. When the department accepts non-INS documentation determined to be reasonable evidence of the alien's immigration status, the department shall photocopy the document and transmit the photocopy attached to the INS form G-845 for INS for verification:

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- (1) Pending the receipt of the verification from the INS, the department shall not deny, delay, reduce, or terminate the individual's eligibility for assistance on the basis of the individual's immigration status; and
 - (2) The department is not required to obtain the alien's written consent in order to transmit the photocopy to INS.
- (d) The department shall provide alien applicants with a reasonable opportunity to submit acceptable documentation of the applicant's eligible alien status prior to the forty-fifth day following the date of application for medical assistance. A reasonable opportunity shall be at least ten days from the date of the department's request for an acceptable document;
- (1) An alien who has been given a reasonable opportunity to submit an acceptable document and who has not done so by the forty-fifth day following the date of application for medical assistance shall not be eligible until acceptable documents are received by the department; and
 - (2) When the department fails to provide an alien applicant with a reasonable opportunity to submit acceptable INS documents and non-INS documents or if the ten day reasonable opportunity period goes beyond the forty-fifth day, the department shall provide the family with medical assistance on the forty-sixth day and medical assistance shall continue until the applicant is determined ineligible.
- (e) While awaiting verification, the alien member whose status is questionable shall be ineligible. The ineligible alien's income and assets shall be considered available in determining the eligibility of the remaining family members:
- (1) When the department determines from discussions with the household that the alien either does not wish to contact INS or will not give permission for the department to contact the INS for the alien, the family shall be given the option of withdrawing the application or participating without the alien member; and

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- (2) When the department receives verification of eligible alien status, the department shall act on the information as a reported change in household composition if the family is receiving assistance without the alien member.
- (f) When the date of expiration on the INS form has passed, the department shall request documentation from the alien indicating an extension from the expiration date:
 - (1) If an alien does not possess a document from INS indicating an extension, the alien shall be instructed to obtain the documentation from INS before the individual is determined eligible for initial or continuing assistance;
 - (2) Without proper documentation, the alien shall be ineligible for assistance; and
 - (3) At each eligibility redetermination or recertification, the alien status shall be verified if the department has reason to believe a change may have taken place.
[Eff am 08/01/94; am 05/17/97;
am 07/10/06] (Auth: HRS §346-14)
(Imp: HRS §346-14; 42 U.S.C. §1320b-7; 42 U.S.C. §1396b(x); 42 U.S.C. §1320b-7(d))

§17-1714-33 Aliens who enter the United States on or after August 22, 1996. (a) Notwithstanding any other provision of this subchapter except as provided in subsection (b), an alien who enters the United States on or after August 22, 1996 shall be prohibited from participation in any medical assistance program under Title XIX of the Social Security Act for a period of five years beginning as of the date of the alien's entry into the United States.

(b) The following are exceptions to the provisions of subsection (a).

- (1) Medical assistance for care and services that are necessary for treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure may be provided to the alien involved, as described in Chapter 17-1723, who meets all other eligibility requirements for coverage; or

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- (2) The following aliens who enter the United States on or after August 22, 1996 are not subject to the five year prohibition of subsection (a).
- (A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;
 - (B) An alien who is granted asylum under section 208 of the Immigration and Nationality Act;
 - (C) An alien whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act;
 - (D) An alien who is lawfully residing in the State and is either an honorably discharged veteran or active member of the United States armed forces and the spouse or dependent child of such an alien;
 - (E) An alien who is a Cuban or Haitian refugee or entrant as addressed in Title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act;
 - (F) An alien admitted to the United States as an Amerasian immigrant;
 - (G) American Indian born in Canada or who is a member of an Indian tribe as defined in 25 U.S.C. §450e(b);
 - (H) An alien receiving Supplemental Security Income (SSI); or
 - (I) An alien who is lawfully admitted as a permanent resident under the INA (8 U.S.C. §1101 et seq); and
 - (i) Is under age nineteen; or
 - (ii) Is a pregnant woman.
- As part of the eligibility redetermination process, the State shall verify that the individual continues to lawfully reside in the United States using the documentation presented by the individual at initial eligibility. If the State cannot verify that the individual is lawfully residing in the United States in this manner, the individual shall be required to provide further documentation or other evidence to verify that the individual is

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lawfully residing in the United States.
[Eff 01/02/97; am 07/10/06; am 04/30/10]
(Auth: HRS §346-14; Pub. L. No. 111-3,
§214) (Imp: 8 U.S.C. §1612)

§§17-1714-34 to 17-1714-37 (Reserved).

SUBCHAPTER 5

INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS)

§17-1714-38 Purpose. The purpose of this subchapter is to identify the IEVS matches and how the department will use and process income and eligibility information obtained from the IEVS matches for the assistance programs. [Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1714-39 Department responsibility. (a) The department shall maintain and use the IEVS to request citizenship, wage and benefit information from the agencies identified in subsection (b) to:

- (1) Verify eligibility for and the amount of assistance due eligible applicants and recipients, including excluded, disqualified, or sanctioned individuals whose income and assets affect the family's eligibility for or amount of assistance;
- (2) Investigate to determine whether an applicant or recipient received assistance to which they were not entitled; and
- (3) Obtain information which will be used in conducting criminal or civil prosecutions based on receipt of assistance to which the applicant or recipient was not entitled.

(b) The department shall obtain written agreements with provider agencies to ensure that the provider agencies will not record any information about any financial, food stamp, or medical assistance applicant or recipient. The wage and benefit information and agencies are:

- (1) Wage information maintained by the state wage information collection agency (SWICA);

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- (2) Information about net earnings from self-employment, wages, and payments of retirement income maintained by the Social Security Administration (SSA) and available under section 6103(1)(7)(A) of the Internal Revenue Code; and federal retirement, survivors, disability, SSI, and related benefit information from SSA;
- (3) Unearned income information from the Internal Revenue Service (IRS) under section 6103(1)(7)(B) of the Internal Revenue Code; and
- (4) Claim information from the agency administering the unemployment insurance benefits (UIB) and, in addition, any information about wages and UIB available from that agency which is useful for verifying eligibility and benefits, subject to the provisions and limitations of 42 U.S.C. §503(d).

(c) The department shall document its use of information obtained through the IEVS both when an adverse action is and is not initiated.

[Eff 08/01/94; am 07/10/06] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §§435.945, 435.948; 42 U.S.C. §1396b(x))

§17-1714-40 Exchange of information. (a) The department shall, subject to formal exchange agreements, exchange information about a family's circumstances which may be of use in establishing or verifying eligibility or amount of assistance in the medical assistance program and with state agencies administering certain other programs in the IEVS, including agencies in other states when the same objectives are likely to be met. The other programs are:

- (1) AFDC;
- (2) Medicaid;
- (3) Unemployment compensation;
- (4) Any state program administered under a plan approved under Title I, X, XIV (adult categories);
- (5) Title XVI of the Social Security Act (SSI program);
- (6) Food stamp;

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- (7) Title IVD of the Social Security Act (child support program); and
- (8) Title II of the Social Security Act (federal old age, survivors, and disability insurance benefits).

(b) Prior to requesting or exchanging information with other agencies, the department shall execute data exchange agreements with those agencies.

[Eff 08/01/94] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §§435.945, 435.948)

§17-1714-41 Requesting and using information from IEVS for applicants. (a) The department shall request and use information about all applicants.

(b) Information shall be requested at the next available opportunity after the date of application even if the applicant has been determined eligible by that time. Information about applicants who cannot provide a social security number at application shall be requested at the next available opportunity after the department is notified of the social security number.

(c) Information received within the forty-five day application period for medical assistance shall be used to determine the applicant's eligibility and amount of assistance, if the information is received timely enough that it can be used for that determination.

(d) The department shall make eligibility and amount of assistance determinations without waiting for receipt of IEVS data.

(e) Information received from a source after an eligibility determination has been made shall be used as specified in section 17-1714-42. Eff 08/01/94]
(Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §435.952)

§17-1714-42 Requesting and using information from IEVS for recipients. (a) For all recipients, the department shall:

- (1) Request information from the SWICA quarterly, including all recipients who participated in any month of the quarter;
- (2) Request information about recipients from SSA data bases no later than the second month of the eligibility or certification period, when

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- requests at application did not establish automatic reporting to the department of changes in SSA data. Requests shall be through the use of the BENDEX, SDX, and TPQY systems according to procedures specified by the commissioner of the SSA;
- (3) Request information from IRS annually for all current recipients according to procedures specified by the commissioner of the IRS;
 - (4) Request information about UIB from the agency administering the unemployment compensation program as follows:
 - (A) For all family members about whom requests at application indicate no receipt of UIB, information shall be requested for the three months subsequent to the month of application or until the receipt of UIB is reported, whichever is earlier;
 - (B) For all family members who report a loss of employment, information shall be requested for the three months subsequent to the month the loss is reported or until the receipt of UIB is reported, whichever is earlier; and
 - (C) For all family members receiving UIB, information shall be requested monthly until the UIB is exhausted;
 - (5) Exchange information with other programs or agencies specified in section 17-1714-40 as the department and other agencies or programs may agree;
 - (6) Request from the unemployment compensation agency any other information besides UIB information which the department determines would be useful in verifying eligibility or amount of assistance of recipients. Requests shall be made by methods at intervals to which the department and the unemployment compensation agency agrees; and
 - (7) Request information from the department of health and attorney general for all recipients as of July 1, 2006 to implement the Deficit Reduction Act of 2005 through data exchange agreements.
 - (b) The department shall initiate and pursue action on information about recipients which is received from the sources specified in subsection (a)

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so that case action is completed within forty-five days of receipt of that information by the department. Case action shall include:

- (1) Review of the information and comparison of the information to case record information; and
- (2) For all new or previously unverified information received, contact with the family or collateral sources, or both, to resolve discrepancies.
- (c) If discrepancies warrant reducing assistance or terminating eligibility, notices of adverse action shall be sent to the recipient.
- (d) When the actions specified in this section substantiate an overissuance, the department shall establish a claim and take recovery action on claims as specified in chapter 17-1705. [Eff 08/01/94, am 07/10/06;] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §435.953; 42 U.S.C. §1396b(x))

§17-1714-43 Processing IEVS information. (a) The department shall take action, including proper notices to households, to terminate, deny, or reduce assistance based on information obtained through the IEVS which is considered verified upon receipt. Information considered verified upon receipt includes:

- (1) Social security and SSI benefit information obtained from SSA;
 - (2) AFDC benefit information;
 - (3) UIB information obtained from the agency administering the unemployment compensation program; and
 - (4) Birth certificate and state identification information.
- (b) If the department has information that the IEVS-obtained information specified in subsection (a) is questionable, this information shall be considered unverified upon receipt and the department shall take action as specified in subsection (c).
- (c) Prior to taking action to terminate, deny, or reduce assistance based on information obtained through the IEVS which is considered unverified upon receipt, the department shall independently verify the information. Information considered unverified includes:
- (1) Unearned income information from the IRS;
 - (2) Wage information from the SSA and SWICA; and

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(3) Questionable IEVS information specified in subsection (b).

(d) The requirement of independent verification specified in subsection (c) shall include verification of:

- (1) The amount of income or asset involved;
- (2) Whether the family has or had access to such income or asset such it would be countable income or asset; and
- (3) The period during which such access occurred.

(e) Except with respect to unearned income information from the IRS, if the department has information which indicates that independent verification is not needed, such verification is not required.

(f) The department shall obtain independent verification of unverified information from IEVS by means of contacting the family or the appropriate income, asset, or benefit source, or both.

(g) If the department chooses to contact the family as specified in subsection (f), the department shall do so in writing and shall include:

- (1) The information which the department has received; and
- (2) A request that the family respond within ten days.

(h) If the family fails to respond in a timely manner to the department's request, the department shall send the family a notice of adverse action.

(i) The department may contact the appropriate income, asset, or benefit source by the means best suited to the situation.

(j) When the household or appropriate income, asset, or benefit source provides the independent verification, the department shall properly notice the family of the action the department intends to take and provide the family an opportunity to request a hearing prior to any adverse action. [Eff 08/01/94; am 07/10/06;] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 C.F.R. §§435.952, 435.955; 42 U.S.C. §1396b(x); 42 U.S.C. §1320b-7(d))