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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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February 6, 2014

TO: The Honorable Mele Carroll, Chair
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 1836 - RELATING TO MEDICAL ASSISTANCE**

Hearing: Thursday, February 6, 2014; 9:30 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of this bill is to limit the Department of Human Services claims for the recovery of medical assistance payments from the estates of deceased recipients to payments made for long-term care services.

DEPARTMENT'S POSITION:

The Department of Human Services (DHS) appreciates the intent of this measure but opposes it because as written it conflicts with Section 1917 of the Social Security Act (SSA).

Section 1917 of the SSA mandates that State Medicaid agencies recover certain expenditures such as nursing facility services, home and community-based services, and related hospital and prescription drug services for individuals age 55 years or older as well as other institutional services for individuals younger than age 55 years. The SSA also specifies under what conditions of survivorship recovery is not permitted, such as surviving spouse or minor or disabled child, with which the requirements of the current statute are not consistent.

We respectfully recommend that this bill be deferred. A further review of other Hawaii statutes related to medical assistance recovery is necessary before any changes are made that may conflict with other state statutes and federal statutes and regulations.

Thank you for the opportunity to testify.

LATE TESTIMONY

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TO: House Committee on Human Services
Thursday, February 6, 2014, at 9:30 A.M., Room 329
Hawaii State Capitol
Honolulu, Hawaii 96813

FROM: Jory Watland, Director
Hawaii Health Authority

SUBJECT: SUPPORT for H.B. 1836
Relating to Medical Assistance

GOOD DAY HUMAN SERVICES CHAIR CARROLL, VICE CHAIR KOBAYASHI AND MEMBERS OF THE HOUSE COMMITTEE ON HUMAN SERVICES:

My name is Jory Watland, and I am the Director of the Hawaii Health Authority.

This testimony is in support of H.B. 1836. With expansion of Medicaid and elimination of the asset test to qualify, many low income residents who are over 55 and who have assets such as a house will be required to sign up for Medicaid. There has always been an asset test to qualify for long-term care funded by Medicaid, requiring seniors to sell their house and other assets before qualifying. This is not changed by this bill. However, there is now a large new category of residents with low income and assets who must sign up for Medicaid or have no health insurance at all. Long term care can at least plausibly be considered voluntary, but these new recipients are being pushed into Medicaid involuntarily.

The Omnibus Budget Reconciliation Act of 1993 allows state DHS/Medicaid programs to recover the costs of Medicaid care if the recipient was over age 55 when they became eligible for Medicaid and turned out to have assets at the time of their death. As long as there was an asset test for Medicaid eligibility, this provision was rarely applicable unless a Medicaid recipient received a financial windfall just before their death. However, with removal of the asset test for eligibility under the ACA, many people who are over 55, with low income but with assets such as a house or an investment portfolio, will be essentially forced into Medicaid when they apply for insurance on the exchanges. When they die, their heirs will be in for a rude awakening if the State were to claw back Medicaid costs from their estate. Many seniors in this position would rather die of their diseases than have their children stripped of their inheritance.

Even worse, for states such as Hawaii that have contracted Medicaid out to private managed care organizations, the 1993 OBRA act allows the state to recover each Medicaid enrollee's share of the premiums paid to the managed care organizations even if the individual never actually used any Medicaid services. The public would rightly view this as outrageously unfair.