



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

LATE

March 23, 2015

TO: The Honorable Dee Morikawa, Chair
House Committee on Human Services

FROM: Rachael Wong, DrPH, Director

SUBJECT: **H.C.R. 106/H.R. 59 - REQUESTING THE DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF HEALTH TO NOT CONSIDER CERTAIN BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT AS INCOME WHEN DETERMINING MEDICAID ELIGIBILITY AND TO ADOPT RULES TO ALLOW A PROVIDER OF MEDICAID ADULT DAY HEALTH SERVICES TO BILL IN FIFTEEN MINUTE INCREMENTS.**

Hearing: Tuesday, March 24, 2015; 9:30 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of the bill is to request the Department of Human Services to consider disregarding certain benefits under Title II of the Social Security Act as income when determining eligibility and to adopt rules to allow a provider of Medicaid Adult Day Health services to bill in fifteen minute increments.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this concurrent resolution but respectfully opposes the resolution.

The request to disregard income would have to be applied to all Medicaid recipients and will have a fiscal impact on the Department. However, the issue raised in the resolution may be addressed by amending the section 1915(c) DD/IID Home and Community-Based waiver. The DHS and the

Department of Health (DOH) have discussed an amendment and DHS stands ready to work with DOH to amend the waiver.

The Department defers to the DOH regarding adoption of rules, if necessary, to allow adult day health providers to bill in fifteen minute increments. DHS defers to DOH on this issue.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 24, 2015

The Honorable Dee Morikawa, Chair
House Committee on Human Services
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Morikawa and Members of the Committee:

SUBJECT: HCR 106/HR 59 – REQUESTING THE DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF HEALTH TO NOT CONSIDER CERTAIN BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT AS INCOME WHEN DETERMINING MEDICAID ELIGIBILITY AND TO ADOPT RULES TO ALLOW A PROVIDER OF MEDICAID ADULT DAY HEALTH SERVICES TO BILL IN FIFTEEN MINUTE INCREMENTS.

The State Council on Developmental Disabilities (DD) **SUPPORTS HCR 106/HR 59**. The resolutions request that the Department of Human Services and Department of Health not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility and to adopt rules to allow a provider of Medicaid Adult Day Health Services to bill in 15-minute increments.

The Council is aware of situations when a dependent adult child receives survivor benefits from a deceased parent resulting in an increase in their monthly income that is just enough to exceed the Medicaid income qualification standard. In order to retain eligibility for Medicaid, the recipient must spend down all of his income as cost share for Medicaid services until his income equals an arbitrary "medically needy" standard of \$469.00 per month. This amount is not enough to cover an individual's living expenses and places the individual in a vulnerable position of losing their provider and residential arrangement.

With regard to the billing of Adult Day Health (ADH) services in 15-minute increments, the Council understands that the current Medicaid Home and Community-Based Services Waiver (Waiver) only allows providers to bill for a six-hour full day or three-hour half day for ADH services. There is no flexibility in the current structure as providers cannot bill for services rendered to participants designated as half day if they were present at the program for fewer than three hours in one day. For full day participants, if they are present for fewer than six hours in one day, the provider can only bill for half day. Expenses are not reduced when a participant is present for less

The Honorable Dee Morikawa
Page 2
March 24, 2015

than a full or half day. It stands to reason that providers should be paid for services that are actually rendered, thus being able to bill in 15-minute increments.

We know that the Department of Human Services (DHS) and Department of Health (DOH) have had discussions about addressing the actual services rendered structure. It is our understanding that in order to change the current reimbursement structure for ADH services in the Waiver and to allow providers to bill in 15-minute increments, there needs to be an amendment to the Waiver. The current Waiver ends on June 30, 2016, and Hawaii needs to submit a renewal waiver application by March 2016 to the Centers on Medicare and Medicaid Services for approval. It would be appropriate for the renewal application to include a new reimbursement structure for ADH services.

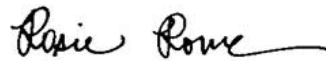
In light of the above, the Council recommends that DHS and DOH begin to convene meetings with stakeholders through the DD Division's Waiver Policy Advisory Committee to work on the Waiver Renewal application.

Thank you for the opportunity to provide testimony **supporting HCR 106/HR 59.**

Sincerely,



Waynette K.Y. Cabral, M.S.W.
Executive Administrator



Rosie Rowe
Chair

The Arc in Hawaii
3989 Diamond Head Road
Honolulu HI 96816
808 737-7995

March 24, 2015

The Honorable Dee Morikawa, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Committee on Human Services
The House of Representatives
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Re: HCR 106 and HR 59 - Requesting the Department of Human Services and Department of Health to Not Consider Certain Benefits Under Title II of the Social Security Act as Income when Determining Medicaid Eligibility and to Adopt Rules to Allow a Provider of Medicaid Adult Day Health Services to Bill in Fifteen Minute Increments.

Hearing: March 24, 2015 9:30 AM
Room # 329

Dear Chair Morikawa and Vice Chair Kobayashi and Members of the Committee;

The Arc in Hawaii **STRONGLY SUPPORTS** House Concurrent Resolution 106 and House Resolution 59, which address two critical areas which seriously impact the provision of services under the Hawaii Medicaid program for persons with intellectual and developmental disabilities.

The triggering of **Medicaid Cost Share** spend down for residents of Developmental Disabilities Domiciliary Homes

Permitting providers of Medicaid Waiver Adult Day Health programs to bill in **15 minute intervals** instead of half day or full day intervals

Medicaid Cost Share

Individuals with a disability rely upon federal Social Security Disability Insurance (SSDI) and/or Supplemental Security Income (SSI) and a State Supplement to SSI (State Supp) for living expenses and upon Medicaid for health and home and community based services. If the individual's other countable income exceeds the aggregate limit of SSDI, SSI and State Supp income, eligibility for SSI and State Supp ends, and, as a result, eligibility for Medicaid also ends. In such cases, under current Department of Human Services practice, the individual may retain eligibility for Medicaid only by "spend down" of all of his or her income except \$469 as

“Medicaid Cost Share” in order to remain eligible for Medicaid services. The remaining \$469 is the only resource the person has available for rent, food, clothing and all other ordinary living requirements. Obviously, no one can survive on this income in Hawaii or anywhere else.

In the case of residents of The Arc’s developmental disabilities domiciliary homes, if Medicaid Cost Share is triggered, the resident is no longer able to pay for his or her rent, board and services in the home. The Arc then faces the dilemma of putting the resident on the street to compete for shelter and food with \$469 or continuing to house him or her at a loss of almost \$915.90 per month in room and board income for each affected resident.

Often the excess countable income is due to the receipt of, or an increase in the amount of, federal Social Security Title II Disabled Adult Child (DAC) benefits (sometimes called Childhood Disability Benefits (CDB)). This is Social Security Disability Income (SSDI) that a disabled adult child receives on his or her parent’s social security account. When the child becomes eligible for DAC/CDB, or when the DAC/CDB benefit is increased, this amount sometimes increases the countable income of the recipient over the SSI, State Supp and Medicaid eligibility standard, resulting in the Medicaid Cost Share spend down described above.

This result is not mandated by federal law. If Hawaii were not one of the eleven “209 (b) states” that apply Medicaid eligibility standards more restrictive than the federal SSI program, then Hawaii would be **mandated** to disregard the receipt of or the increase in the SSDI in determining continued eligibility for Medicaid. In the case of Hawaii, it is **optional** for the State to disregard the amount of the SSDI receipt or increase.

A little known provision of federal law, 42 USC §1383c (c), provides that persons eligible for categorically needy Medicaid benefits who receive, or receive an increase in, Social Security DAC/CDB benefits resulting in income exceeding the Medicaid categorically needy eligibility standard remain eligible for Medicaid benefits as long as the person would have been eligible if the receipt or increase had not occurred.

We request that DHS be urged to adopt regulations that disregard so much of the DAC/CDB benefit or increase thereof as makes the individual ineligible for SSI, State Supp and Medicaid and that any spend down from total income be limited to the amount necessary to bring total income down to the SSI, State Supp and Medicaid eligibility standard. This would avoid the harsh result of throwing the resident of a developmental disabilities domiciliary home onto the street with inadequate income to remain alive merely because of an increase in SSDI/DAC/CDB benefits. It would also assist The Arc to continue to provide room, board and services to the persons without exacerbating its financial condition.

We believe there are other solutions to this predicament, but the income disregard solution is the easiest to achieve. If that cannot be accomplished for some reason, DHS and DOH should be urged to explore other solutions.

Medicaid Waiver Adult Day Health (ADH) Billing

The Arc and many other providers offer Medicaid Waiver home and community based Adult Day Health services. The Department of Health allows providers to bill only for full day (6 hours) or half day (3 hours). As a result, if a half-day client receives services for only 2 hours and 45 minutes on a day, the provider can bill nothing. If a full day client is present only 5 hours and 45 minutes, the provider may bill only for a half day. These rules are patently unfair. It is a basic principle that providers should be paid for services actually rendered at the very least. Expenses are not reduced when a client is absent or is present for less than a full or half day. Services are rendered during the period when the individual is present. Basic fairness requires that adult day health providers be paid for all services actually rendered.

The Resolution urges the Department of Human Services and the Department of Health to take all actions necessary to allow a provider of Medicaid home and community based adult day health services to bill in 15-minute increments instead of only full– or half– day increments.

For these reasons, The Arc in Hawaii strongly supports HCR 106 and HR 59 in all respects.

Thank you for the opportunity to testify.

The Honorable Dee Morikawa, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Committee on Human Services
The House of Representatives
State of Hawaii

Re: HCR 106 and HR 59

Hearing: March 24, 2015 9:30 AM Room #329

Dear Chair Morikawa and Vice Chair Kobayashi and Members of the Committee:

I strongly support HCR 106 and HR 59, which address two critical areas which seriously impact the provision of services under the Hawaii Medicaid program for persons with intellectual and developmental disabilities.

- The triggering of Medicaid Cost Share spend down for residents of Developmental Disabilities Domiciliary Homes
- Permitting providers of Medicaid Waiver Adult Day Health programs to bill in 15 minute intervals instead of half day or full day intervals

HCR 106 and HR 59 request the Department of Human Services and the Department of Health to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility, as well as to adopt rules to allow a provider of Medicaid Adult Day Health Services to bill in fifteen minute increments. These actions by DHS/DOH are needed so that the private, non-profit agencies that offer both Medicaid Domiciliary and Medicaid Waiver Adult Day Health programs are appropriately recompensed and can continue to provide the quality services our fellow citizens of Hawaii with ID/DD need.

Thank you for the opportunity to submit testimony on these important matters.

Sincerely,

Becky Tyksinski
539 Kaiemi St.
Kailua, HI 96734
808-261-5088



LATE

Easter Seals Hawaii

Administrative Offices
710 Green Street
Honolulu, Hawaii 96813
Phone: 808.536.1015
Toll Free: 888.241.7450
Fax: 808.536.3765

March 23, 2015

To: Committee on Human Services
Representative Dee Morikawa, Chair
Representative Bertrand Kobayashi, Vice Chair

From: Ron Brandvold, President & CEO

Re: **Support for HCR 106/ HR 59 – Requesting the Department of Human Services and Department of Health to Not Consider Certain Benefits Under Title II of the Social Security Act as Income When Determining Medicaid Eligibility and to Adopt Rules to Allow a Provider of Medicaid Adult Day Health Services to Bill in Fifteen Minute Increments**
Hearing Scheduled for March 24, 2015 (9:30 am)

For over 60 years, Easter Seals Hawaii has provided exceptional, individualized, family-centered services to empower infants, children, youth and adults with disabilities or special needs to achieve their goals and live independent fulfilling lives. Easter Seals Hawaii is a statewide CARF accredited organization with 15 facilities from Waimea, Kauai to Hilo, Hawaii providing a variety of programs including Early Intervention Services for infants and toddlers with disabilities, Medicaid Waiver Home and Community Based Services, Services to Youth, Employment Services, and Intensive Services to Children Diagnosed with Autism Spectrum Disorder.

Easter Seals Hawaii supports both actions contemplated by **HCR 106/ HR 59**. Both federal and state policy objectives to fully integrate people with disabilities as members of the community are served by the actions in these Resolutions. Individuals with disabilities should not be placed in the position of having to choose whether to receive the Social Security disability income at the risk of eligibility for the State's Medicaid program which provides for medical care and a menu of home and community based services. Rather than force an individual to "spend down" their income to a level that results in extreme hardship and inability to cover daily living expenses for the purpose of retaining medical care and services, the State should support income retention and continued Medicaid coverage.

Easter Seals Hawaii is a partner with the State in providing a menu of home and community based services for individuals with disabilities, including day programs and employment services (a new program in furtherance of the January 2014 Final Rule issued by the Centers for Medicare and Medicaid Services). With the focus on seeking employment, working in competitive integrative settings, engaging in community life and receipt of services in the community, people with disabilities and the programs that support those individuals must be provided flexibility. Individuals with disabilities must be allowed the benefit of day programs for services and periods of time that serve their needs. Programs must be allowed to bill in more realistic increments (e.g. 15 minute increments) rather than arbitrary full or half day increments which not only constrains individuals and challenges programs. Flexibility in provider or program billing serves the individual, the home and community-based programs, and state objectives.

We urge approval of **HCR 106/HR 59**. Thank you for the opportunity to provide these comments.

Chair

Susan Eichor
Vice Chair
Bob Toyofuku
Secretary
Carl Hinson
Treasurer
Derek Mizuno

Directors

Riki Amano
Frank Ho
Debra Kagawa-Yogi
Ed Kageyama
Suzanne Kaulukukui
Arnold Martines
Randy Perreira
Shawn Shimabukuro
Kathryn Yamamoto
Todd Yamanaka

Chair

Ken Hayashida
Vice Chair
JoAnn Yosemori
Treasurer/Secretary
Lynn Zane

Directors

Jodi Endo Chai
Micah Kane
Bill Kern
Avi Mannis
Alton Murakami
Simplicio Paragas
Masaichi Tasaka
Henry Wong, Ph.D.
Teri Yamashige
Sherri Yim

LATE

State of Hawaii
House of Representatives Committee on Human Services
The Honorable Representative Dee Morikawa, Chair
The Honorable Representative Bertrand Kobayashi, Vice Chair
Hawaii State Legislature

March 24, 2015; 9:30 a.m.
Room 329

HCR 106 / HR 59, Requesting the Department of Human Services and Department of Health to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility and to adopt rules to allow a provider of Medicaid Adult Day Health Services to bill in fifteen minute increments

Good morning, Chair Morikawa, Vice Chair Kobayashi, and Members of the Human Services Committee,

Lanakila Pacific **supports** the intent of HCR106 and HR59 to allow Medicaid Adult Day Health providers to bill in 15 minute increments.

Medicaid Adult Day Health programs play a vital role in the lives of adults with Developmental Disabilities by providing opportunities to explore professional, educational, and recreational interests, and subsequently increase their independence in these areas, they otherwise might not have. These opportunities are critical in empowering these vulnerable adults to achieve their personal goals and becoming active members of their community.

Limiting billing to either full or half day provides a barrier for Medicaid Adult Day Health providers to be financially viable and jeopardizes the continued support to the individuals served.

Since January 2004, Medicaid Adult Day Health providers have seen an increase of less than 5% in the daily reimbursement rate while costs continue to rise. This places further burden on the providers to make ends meet while striving to provide quality, outcome based services.

Founded in 1939, Lanakila Pacific is a Hawaii-based non-profit organization. Our programs and social enterprises currently serve over 2,300 Oahu and Kauai residents annually, with services that build independence and self-sufficiency, which in turn supports our greater community. Our programs include employment training and job placement assistance for people with disabilities.

House Committee on Human Services

March 24, 2015; 9:30 a.m.

Page Two

Through our Adult Day Health program, over 120 participants are served annually in the Honolulu and Central Oahu communities.

Thank you for the opportunity to provide testimony in support of the intent of this measure.

Respectfully submitted,

Marian E. Tsuji
President & CEO

Lori Lutu
Director of Teaching & Learning Center

LATE

Thomas P Huber
46-291 Auna Street
Kaneohe HI 96744
808 235-1437

March 24, 2015

The Honorable Dee Morikawa, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Committee on Human Services
The House of Representatives
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Re: HCR 106 and HR 59
Hearing: March 24, 2015 9:30 AM
Room # 329

Dear Chair Morikawa and Vice Chair Kobayashi and Members of the Committee;

I am the volunteer President of The Arc in Hawaii and I **STRONGLY SUPPORT** House Concurrent Resolution 106 and House Resolution 59, which address two critical areas which seriously impact the provision of services under the Hawaii Medicaid program for persons with intellectual and developmental disabilities.

There are two basic issues covered by this resolution

The triggering of **Medicaid Cost Share** spend down for residents of Developmental Disabilities Domiciliary Homes

Permitting providers of Medicaid Waiver Adult Day Health programs to bill in **15 minute intervals** instead of half day or full day intervals

Medicaid Cost Share

Under current regulations, two of our residents suffer the harsh impact of Medicaid Cost Share. They receive income from three potential sources – Social Security Disability Income (SSDI/DAC) on their parent's record because they became disabled before age 22 – federal Supplemental Security Income (SSI) and the State Supplement to SSI (State Supp). Because the amount of SSDI/DAC is greater than the total entitlement to SSI and State Supp, they became ineligible for Medicaid unless they spent down all of their SSDI Income to \$469, not down to the Medicaid Income limit, as you might expect.

They are left with only \$469 to pay for living expenses, rent, board, transportation and

other necessities.

How can that be fair?

So far, The Arc has not evicted the two, but has allowed them to remain in the Arc's homes and receive full services even though they pay only \$419 per month for room, board and services. There is no assurance we can continue to do so.

We have discussed with the Department of Human Services a remedy for this situation that is available under federal law – the disregard of the amount of SSDI/DAC that causes the spend down requirement, but so far the department has refused to take action.

The department has told us that if it disregarded the income of disabled adults in this circumstance, it would be required to do so for all Medicaid recipients/applicants. I do not believe this is so, and I would hope that the department would obtain a legal opinion or CMS guidance clarifying the situation.

Medicaid Waiver Adult Day Health (ADH) Billing

The Arc offers Medicaid Waiver home and community based Adult Day Health services. The Department of Health allows providers to bill only for full day (6 hours) or half day (3 hours). As a result, if a half-day client receives services for less than 3 hours on a day, the provider can bill nothing. If a full day client is present more than 3 but less than 6 hours, the provider may bill only for a half day. These rules are patently unfair. It is a basic principle that providers should be paid for services actually rendered at the very least. Expenses are not reduced when a client is absent or is present for less than a full or half day. Services are rendered during the period when the individual is present. Basic fairness requires that adult day health providers be paid for all services actually rendered.

The second "Resolved" urges the Department of Human Services and the Department of Health to take all actions necessary to allow a provider of Medicaid home and community based adult day health services to bill in 15-minute increments instead of only full- or half- day increments.

I would be happy to answer any questions you may have or to address any statement made by the Department of Health or the Department of Human Services in any testimony they may submit.

Thank you for introducing this Resolution and for hearing our concerns.