DAVID Y. IGE
GOVERNOR

PANKAJ BHANOT
DIRECTOR

BRIDGET HOLTHUS
DEPUTY DIRECTOR

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

March 29, 2017

TO: The Honorable Josh Green, Chair
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **SCR 45/SR 11 – URGING THE DEPARTMENT OF HUMAN SERVICES TO NOT CONSIDER CERTAIN BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT AS INCOME WHEN DETERMINING MEDICAID ELIGIBILITY**

Hearing: March 29, 2017, 2:50 p.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) offers comments.

PURPOSE: The purpose of Senate Concurrent Resolution 45 and Senate Resolution 11 is to urge DHS to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility for individuals identified as Disabled Adult Children (DAC).

DHS appreciates the intent of the resolution to disregard the increases of federal Social Security Title II income, also referred to as DAC benefits, received by a disabled adult child on his/her parent's social security account. We note here that the Med-QUEST division (MQD) already amended the Hawaii Administrative Rules (HAR) related to DAC, chapter 17-1722, HAR, sections 17-1722-145 to 17-1722-149, to address this issue. Per subsection 17-1722-148(c), the amount of Title II income that exceeds the Supplemental Security Income (SSI)/State Supplementary Payment (SSP) payment standard shall be disregarded.

Thus, while we believe this section of the HAR provides adequate guidance related to the disregard of income that exceeds the SSI/SSP payment standard, we will revisit the applicable HAR subsections to ensure they provide proper guidance to accomplish our shared goals of continuance of an individual's full Medicaid benefits as allowed by federal law, and avoiding redeterminations under a Medically Needy program due to increased Social Security Income when not appropriate.

Thank you for this opportunity to provide comments on this resolution.

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 29, 2017

The Honorable Josh Green, Chair
Senate Committee on Human Services
Twenty-Ninth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Green and Members of the Committee:

SUBJECT: SCR45 AND SR11 - URGING THE DEPARTMENT OF HUMAN SERVICES TO NOT CONSIDER CERTAIN BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT AS INCOME WHEN DETERMINING MEDICAID ELIGIBILITY.

The State Council on Developmental Disabilities (DD) **supports the intent of SCR 45 and SR 11.** The purpose of the resolutions is to urge the Department of Human Services to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility.

The Council supports the benefit disregard because, without it, individuals with developmental disabilities who are a dependent adult child (DAC), could lose their residential placement and support services through the Home and Community-Based Services Medicaid Waiver Program. An example is an individual with DD residing in a licensed or certified home receives $1,384.90 a month in Supplemental Security Income (SSI). The individual keeps $50.00 for their own personal use and pays $1,334.90 a month for their residential living arrangement. However, following this individual’s parent’s death, the survivor benefits or the pension payment went to this individual. This additional money caused the individual to exceed the income qualification standard for SSI and the state supplement to SSI and, thus, is no longer eligible for Medicaid benefits.

The individual must make a choice, in order to maintain Medicaid benefits, he must pay a cost-share, and his income drops to $469.00. Consequently, he cannot afford his residential placement. If he chose to keep his residential placement and not pay the cost-share, he loses Medicaid, and essentially would lose his support services through the Medicaid Waiver Program. Moreover, his caregiver cannot care for him without the Medicaid Waiver Services, and a new residential placement must be found. For medical services, the individual may have no other option than to seek medical care through the emergency room. In extreme cases, the individual has been abandoned at the hospital because residential placement cannot be found, and as a result, would lose of his supports.

The Council defers to the Department of Human Services for the costs associated with disregarding the Social Security Act Title II benefit or any increase in that benefit that makes an individual ineligible for supplemental security income and Medicaid.

Thank you for the opportunity to submit testimony in **supporting the intent of SCR 45 and SR 11**.

Sincerely,

Waynette K.Y. Cabral, MSW
Executive Administrator

Josephine C. Woll
Chair

The Arc in Hawaii

Achieve with us.

March 28, 2017

The Honorable Josh Green, Chair
Senate Committee on Human Services
29th Legislature
State Capitol
State of Hawaii
415 South Beretania Street
Honolulu, Hawaii 96813

RE: SCR 45 and SR 1 –
Urging The Department Of Human Services To Not Consider Certain Benefits Under Title II Of The Social Security Act As Income When Determining Medicaid Eligibility.

Hearing: Wednesday, March 29, 2017. 2:50 PM
Conference Room 016

Dear Senator Green and Members of the Committee;

The Arc in Hawaii **STRONGLY SUPPORTS** both SCR 65 and SR 11.

The resolutions would urge the Department of Human Services to disregard the receipt of certain federal "Disabled Adult Child" benefits under the Social Security Act to the extent the benefit disqualifies the person for Medicaid. This income disregard is **permitted** by federal law, and, in fact, **mandated** for all states except Hawaii and ten other states.

The Arc in Hawaii operates ten small community based Developmental Disabilities Domiciliary Homes providing room, board and care for 42 individuals with Intellectual and Developmental Disabilities. Two of our residents are unfairly and unnecessarily denied support because of a quirk in Hawaii's implementation of the so-called "Medicaid Cost Share" or "spend down" rule, which leaves them with only the "medically needy" standard $469 per month to pay for shelter, food, clothing and expenses of daily living.

These residents receive Social Security Disabled Adult Child benefits on the Social Security account of a deceased parent. Their Disabled Adult Child benefits exceed the Medicaid income qualification standard for Medicaid by a small amount and as a result they became ineligible for Medicaid medical coverage and Medicaid Waiver services. Hawaii's Medicaid Cost Share rule forced a bitter choice upon them – either forgo Medicaid coverage (medical and Medicaid Waiver services) altogether or dedicate all but $469 of their Social Security benefit to Cost Share payments for Medicaid coverage and services. No one can survive on $469 a month. And health care is a right for all Americans. These individuals and others in the same situation should not be forced into these harsh alternatives.

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Federal law, title 42 United States Code section 1383c(c), **mandates** that most states disregard the amount of Disabled Adult Child benefits, or the increase thereof, that causes the requirement to spend down to the $469 medically needy standard, but gives Hawaii and ten other states the **option** to disregard such income.

Not only is Hawaii one of only eleven states in which such income disregard is not mandated, it has been discriminatory in the manner in which it applies income disregards that are authorized by federal law. Federal law applies similar income disregard provisions for three other groups of Social Security recipients, and the Department of Human Services has adopted rules applying the income disregard to the other groups, excluding only the Disabled Adult Child group.

In the case of The Arc's two affected residents, The Arc has not evicted them though they cannot pay the rent, board and care fees charged to the other tenants. The Arc should not be required to absorb this loss month after month, and indeed may not be able to do so in the future if other cases arise, or if carrying the residents becomes an extreme burden

The Arc in Hawaii has urged the Department of Human Services to adopt the federal income disregard standard to Disabled Adult Child beneficiaries since 2013. Recently, in connection with testimony on the House counterpart of this Resolution, DHS has acknowledged that its Rules do allow the income disregard recommended by these resolutions. We respectfully ask the Committee to advance the Resolutions to encourage DHS to implement this authority and treat disabled adult children equally with other groups entitled to income disregard of this type.

The Arc in Hawaii defers to the Department of Human Services as to how many Disabled Adult Child benefit recipients in the State would be affected by the income disregard, but The Arc believes the number is not great.

Thank you for the opportunity to testify in support of SCR 45 and SR 11.

Lei Fountain
Executive Director

Thomas P. Huber

Thomas Huber
Vice President

Representative Dee Morikawa, Chair
Representative Chris Todd, Vice-Chair
Members of the Committee: Representatives Della Au Belatti, Marcus R. Oshiro Sharon E. Har, Andria P.L. Tupola, and Bertrand Kobayashi

Re: HCR65 and HR32, scheduled for hearing by the Committee on Human Services Wednesday, March 15 at 9:30am.

Honorable Representatives:

I support HCR65 and HR32, which urge the Department of Human Services to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility, by taking the necessary steps to adopt the income disregard provisions of federal law.

The problem these resolutions are intended to correct is the so-called "Medicaid Cost Share" or "spend down." This occurs when the total amount of federal and state disability benefits received by an individual exceeds the maximum income eligibility standard for Medicaid. In order to continue Medicaid coverage, the individual must "spend down" all but $469 of income to cover Medicaid services. After a $50 personal expense allowance, tenants are left with only $419 for room, board, transportation, clothing and all other living expenses. Obviously, no one can survive on this income in Hawaii or anywhere else.

The result is irrational: For example, $419 falls far short of the $1,336.90 monthly payment normally contractually obligated as payment for these services in The Arc in Hawaii's DD Dom Homes.

Federal law does not mandate this result. Often the excess countable income is due to the receipt of, or an increase in the amount of, federal Social Security income received by a disabled adult child on his or her parent's social security account (DAC Benefits). When the child becomes eligible for DAC benefits, or when the DAC benefit is increased, this amount sometimes increases the countable income of the recipient over the Medicaid income eligibility standard, resulting in the Medicaid Cost Share spend down described above.

However, it is **optional** for the State of Hawaii to disregard the amount of DAC or an increase in the DAC amount to the extent it triggers Cost Share. The details are set forth in the CMS Disability and Aging TA Series #01 Memorandum dated June 12, 2002, *Groups Deemed to be Receiving SSI for Medicaid Purposes.*

I urge this Committee to pass HCR65 and HR32 in the interest of fairness and equal treatment to this already underserved and marginalized group of our fellow citizens.

Thank you for the opportunity to submit testimony.
Sincerely,
Christina J. Hogan
2600 Pualani Way 1705
Honolulu, Hawaii 96815

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 28, 2017 12:35 PM
To: HMS Testimony
Cc: 5elladonna@gmail.com
Subject: Submitted testimony for SCR45 on Mar 29, 2017 14:50PM

SCR45
Submitted on: 3/28/2017
Testimony for HMS on Mar 29, 2017 14:50PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
liz Sappington	Individual	Support	No

Comments: Aloha. I work with adults with developmental/intellectual disabilities. They have many abilities but being able to fully provide for themselves and navigate an adult life with twists and turns and blind ends is not one of them. It's a challenge for many of us as well to navigate life on a good day. I ask you to keep in mind that they don't have much. There are few premiums and benefits that they get. Their lives have meaning and merit. Any measures that would curtail their needed benefits or impede their access to Medicaid should be denied. They deserve better from you. From us as a State. They need better efforts more than ever from you the elected officials and from us as a State in ensuring that they and others who have a need are cared for and have access to the benefits of Medicaid.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 28, 2017 11:02 AM
To: HMS Testimony
Cc: cwaki1@gmail.com
Subject: Submitted testimony for SCR45 on Mar 29, 2017 14:50PM

SCR45
Submitted on: 3/28/2017
Testimony for HMS on Mar 29, 2017 14:50PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Claretta Wakita	Individual	Support	No

Comments: Senator Josh Green, Chair Senator Stanley Chang, Vice-Chair Members of the Committee: Senators Breene Harimoto, Jill Tokuda, and Glenn Wakai Re: SCR45 and SR11, scheduled for hearing by the Committee on Human Services Wednesday, March 29 at 2:50pm. Honorable Senators: I support HCR65 and HR32, which urge the Department of Human Services to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility, by taking the necessary steps to adopt the income disregard provisions of federal law. The problem these resolutions are intended to correct is the so-called “Medicaid Cost Share” or “spend down.” This occurs when the total amount of federal and state disability benefits received by an individual exceeds the maximum income eligibility standard for Medicaid. In order to continue Medicaid coverage, the individual must “spend down” all but $469 of income to cover Medicaid services. After a $50 personal expense allowance, tenants are left with only $419 for room, board, transportation, clothing and all other living expenses. Obviously, no one can survive on this income in Hawaii or anywhere else. The result is irrational: For example, $419 falls far short of the $1,336.90 monthly payment normally contractually obligated as payment for these services in The Arc in Hawaii’s DD Dom Homes. Federal law does not mandate this result. Often the excess countable income is due to the receipt of, or an increase in the amount of, federal Social Security income received by a disabled adult child on his or her parent’s social security account (DAC Benefits). When the child becomes eligible for DAC benefits, or when the DAC benefit is increased, this amount sometimes increases the countable income of the recipient over the Medicaid income eligibility standard, resulting in the Medicaid Cost Share spend down described above. However, it is optional for the State of Hawaii to disregard the amount of DAC or an increase in the DAC amount to the extent it triggers Cost Share. The details are set forth in the CMS Disability and Aging TA Series #01 Memorandum dated June 12, 2002, Groups Deemed to be Receiving SSI for Medicaid Purposes. I urge this Committee to pass HCR65 and HR32 in the interest of fairness and equal treatment to this already underserved and marginalized group of our fellow citizens. Thank you for the opportunity to submit testimony.

identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Senator Josh Green, Chair
Senator Stanley Chang, Vice-Chair
Members of the Committee: Senators Breene Harimoto, Jill Tokuda, and Glenn Wakai

Re: SCR45 and SR11, scheduled for hearing by the Committee on Human Services Wednesday, March 29 at 2:50pm.

Honorable Senators:

I support HCR65 and HR32, which urge the Department of Human Services to not consider certain benefits under Title II of the Social Security Act as income when determining Medicaid eligibility, by taking the necessary steps to adopt the income disregard provisions of federal law.

The problem these resolutions are intended to correct is the so-called "Medicaid Cost Share" or "spend down." This occurs when the total amount of federal and state disability benefits received by an individual exceeds the maximum income eligibility standard for Medicaid. In order to continue Medicaid coverage, the individual must "spend down" all but $469 of income to cover Medicaid services. After a $50 personal expense allowance, tenants are left with only $419 for room, board, transportation, clothing and all other living expenses. Obviously, no one can survive on this income in Hawaii or anywhere else.

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I urge this Committee to pass HCR65 and HR32 in the interest of fairness and equal treatment to this already underserved and marginalized group of our fellow citizens.

Thank you for the opportunity to submit testimony.

Becky J. Tyksinski
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