



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 900, H.D. 1, RELATING TO MEDICAL ASSISTANCE FRAUD.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, January 21, 2016 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Attorney General supports this bill, because it will strengthen the ability of the State to prosecute individuals who fraudulently obtain medical assistance benefits.

This measure amends section 346-43.5, Hawaii Revised Statutes (HRS), to clarify that an individual who fraudulently applies for or renews medical assistance benefits commits the offense of medical assistance fraud, which is a class C felony. In addition, this measure makes clear that restitution equivalent to the amount of medical assistance benefits paid on behalf of such a recipient of medical assistance benefits shall be paid by the convicted person. Finally, this measure amends section 701-108(3), HRS, to extend the statute of limitations for the offense of medical assistance fraud, thereby allowing medical assistance fraud cases to be brought within three years after discovery of the offense, but in no case more than six years after the expiration of the three-year statute of limitations provided for under section 701-108(2), HRS.

This measure will allow for more effective prosecution of applicants who fraudulently obtain medical assistance paid for by the State. Section 346-43.5 currently could be interpreted to apply only to fraud committed by health care *providers*, and not to fraud committed by individual *recipients* of medical assistance benefits. This measure will make it clear that the section also applies to fraud committed by individual recipients. This measure also will give notice to recipients of medical assistance of this criminal offense and clarifies the type of restitution that will be owed if convicted. It also allows prosecutors to commence actions for medical assistance fraud beyond the standard three-year statute of limitations provided for by section 701-108(2), HRS. This extension of the statute of limitations is warranted because the

fraudulent conduct can often conceal the offense or make it difficult to recognize or discover it. This amendment would make the statute of limitations period consistent with the time limitation allowed for theft of other public assistance benefits, such as SNAP (food stamps), financial, or childcare, as a result of fraudulent conduct.

For the foregoing reasons, we respectfully request that this measure be passed.

DAVID Y. IGE
GOVERNOR



RACHAEL WONG, DrPH
DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
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January 21, 2016

TO: The Honorable Representative Karl Rhoads, Chair
House Committee on Judiciary

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 900 HD1 - RELATING TO MEDICAL ASSISTANCE FRAUD**

Hearing: Thursday, January 21, 2016, 2:00 p.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this Administration measure that would increase the ability of the Department of the Attorney General to prosecute medical assistance recipient fraud.

PURPOSE: The purpose of the bill is to clarify that fraudulently applying for or renewing an application for medical assistance benefits is a class C felony, to clarify the amount of restitution when the fraud is committed by a recipient of medical assistance benefits, to define "medical assistance benefit," and to amend the statute of limitations provision under section 701-108, Hawaii Revised Statutes (HRS), to include the offense of medical assistance fraud with other felony offenses involving fraud or deception.

The DHS is committed to eliminating fraud, waste, and abuse. Suspected cases of medical assistance recipient fraud are handled by both the DHS' Investigations Office and the

Medicaid Fraud Control Unit for investigation. The Department of the Attorney General is responsible for further investigation and prosecution.

The Attorney General's ability to prosecute Medicaid fraud aids in the recovery of capitation payments made by the DHS. The investigation and prosecution of fraud also serves as a deterrent to others contemplating committing recipient fraud. Prosecution of fraud is an integral tool to help the State ensure program integrity and ensure services are available to those most in need of medical care.

There are currently at least 10 cases that have been referred to the DHS Med-QUEST Division (MQD) over the past year that we have not been able to investigate and pursue for possible prosecution. The MQD will also be procuring for an Asset Verification contractor within the year which is a federal requirement. Should the contractor find individuals who have possibly defrauded the Medicaid program, without the proposed change in statute, the Department of the Attorney General will not pursue the investigation and prosecution.

Thank you for the opportunity to testify on this bill.