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April 17, 2017

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

FROM: Pankaj Bhanot, Director

SUBJECT: **HCR 65 – 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: April 17, 2017, 10:20 a.m.  
Conference Room 229, State Capitol

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

**PURPOSE:** The purpose of House Concurrent Resolution 65 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, and received by a disabled adult child on his/her parent's Social Security account. We note here that the Med-QUEST division (MQD) already addressed this issue when we amended the Hawaii Administrative Rules (HAR) related to DAC, chapter 17-1722, HAR, sections 17-1722-145 to 17-1722-149. 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 addresses the main concern 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. We will also provide additional training and clarification for our staff to ensure that the disregards are 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  
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HONOLULU, HAWAII 96814  
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April 17, 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: HCR 65 - 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 HCR 65**. The purpose of the resolution 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.

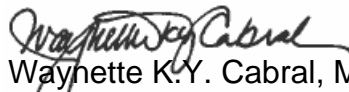
The individual must make a choice, in order to maintain Medicaid benefits, he must pay a cost-share, and his income drops to \$469.00. Consequently, he cannot afford his residential placement. If he chose to keep his residential placement and not pay the cost-share, he loses Medicaid, and essentially 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.


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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 **support of HCR 65**.

Sincerely,

  
Waynette K.Y. Cabral, MSW  
Executive Administrator

  
Josephine C. Woll  
Chair

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April 17, 2017

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

RE: HCR 65

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: Monday, April 17, 2017. 10:20 AM  
Conference Room 229

Dear Senator Green and Members of the Committee;

The Arc in Hawaii **STRONGLY SUPPORTS** HCR 65, which is the House companion of SCR 45, which your Committee passed out last month.

The resolution would urge the Department of Human Services to disregard the receipt of certain federal “Disabled Adult Child” benefits (“DAC benefits”) under the Social Security Act to the extent the DAC 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. One of our residents is 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 her with only the “medically needy” standard \$469 per month to pay for shelter, food, clothing and expenses of daily living.

This resident receives Social Security DAC benefits on the Social Security account of a deceased parent. Her DAC benefits exceed the Medicaid income qualification standard for Medicaid by a small amount and as a result she became ineligible for Medicaid medical coverage and Medicaid Waiver services. Hawaii’s Medicaid Cost Share rule forced a bitter choice upon her – either forgo Medicaid coverage (medical and Medicaid Waiver services) altogether or dedicate all but \$469 of her 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. She and others in the same situation should not be forced into these harsh alternatives.

Federal law, title 42 United States Code section 1383c(c), **mandates** that most states disregard the amount of DAC 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 implemented the income disregard to the other groups, but not to the Disabled Adult Child group.

In the case of The Arc's resident, The Arc has not evicted her though she 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 such 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 children beneficiaries since 2013. Recently, in connection with testimony on both HCR 65 and SCR 45, DHS has acknowledged that its Rules do allow the income disregard recommended by these resolutions. Further, DHS has informed us that it would commence DAC income disregard on our resident. We are pleased, but want to assure that the change will be permanent and apply to all future residents who would become ineligible due to excess DAC benefits in the future. We respectfully ask the Committee to advance HCR 65 to encourage DHS to implement this authority permanently and across the board and treat disabled adult children equally with other groups entitled to income disregard of this type.

Thank you for the opportunity to testify in support of HCR 65.



Thomas P. Huber  
Vice President