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 15, 2017

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

Dear Representative Morikawa and Members of the Committee:

SUBJECT: HCR 65 AND HR 32 - 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 HCR 65 and HR 32.** The purpose of the resolutions are 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 HCR 65 and HR 32**.

Sincerely,

Waynette K.Y. Cabral, MSW
Executive Administrator

Josephine C. Woll
Chair

Hawaii Disability Legal Services, LLLC

1188 Bishop Street, Ste 1402 ◆ Honolulu, Hawaii, 96813 75-5737 Kuakini Hwy, Ste 104 ◆ Kailua-Kona, HI, 96740

March 14, 2017

Committee on Human Services
Testimony on H.C.R. 65 and H.R. 32

March 15, 9:30 a.m.
Conference Room 329

Dear Chair Morikawa, Vice Chair Todd, and Members of the Committee:

My name is Diane C. Haar. I am a licensed attorney practicing in the State of Hawai`i. My practice is devoted to representing individuals with disabilities and their interests throughout the state.

I am strongly in support of H.C.R. 65 and H.R. 32. Disabled since her birth, my sister receives the Social Security Disabled Adult Child benefit. Typically, an individual would be eligible for about $735 per month in benefits. The Disabled Adult Child benefit allows for a modest increase of a few hundred dollars or so, depending on how much that person's parent paid into Social Security.

Currently, my sister lives in an assisted living facility near my parents on the mainland. This facility is very similar to the developmental disabilities domiciliary homes administered here by The Arc of Hawaii. As with most siblings, as my parents age, I will assume my sister's care.

Right now, in Hawaii, when someone like my sister receives Disabled Adult Child benefits causing his or her income to exceed Medicaid income limits, the Department of Human Services takes all but $469 of his or her benefit as a so-called "Medicaid Cost Share" to pay for Medicaid coverage. This is much too little to provide for anyone, let alone someone who has disabilities.

Federal Social Security law requires Disabled Adult Children be allowed to choose Medicaid as most programs available to them require this coverage. However, while the law allows states to disregard Disabled Adult Child benefits to the extent it disqualifies the person for Medicaid, and nearly all have done so, Hawaii through the Department of Human Services has not.

This is a major concern for me in making Hawaii my home. I still remember the first time I found someone with diagnoses nearly identical to my sister in the men's shelter at IHS whose father had recently passed. A recipient of Disabled Adult Child benefits, he could afford modest housing, but due to his incapacity, could not sustain it. As a family member, that this could happen is absolutely terrifying.

Please urge the Department of Human Services to stop reducing these individual's benefits to $469 a month, and to instead adopt an appropriate rule disregarding Disabled Adult Child benefits for eligibility to Medicaid.

Tel: (808) 536-8074 ◆ Fax: (877) 335-2254 ◆ DHaar@hawaiidisabilitylegal.com

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 urges 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 necessary steps to adopt the income disregard provisions of federal law.

It would seem the problem both of these resolutions would correct is the "Medicaid Cost Share" or "spend down". If the individual receiving federal and state disability benefits exceeds the maximum income eligibility standard, the individual would have to "spend down" all but $469 of income to cover Medicaid services. This needs to be done in order for the individual to continue to receive Medicaid coverage. Who can live on $469 minus $50 for personal expense allowance which leaves the individual $419 to pay for room, board, transportation, clothing and all other living expenses. No one can live on this amount, especially in Hawaii.

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

Thank you for the opportunity to submit testimony.

Verdallie K. Puni
kauip@thearcinhawaii.org

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 8, 2017 5:38 PM
To: HUStestimony
Cc: 5elladonna@gmail.com
Subject: Submitted testimony for HCR65 on Mar 15, 2017 09:30AM

HCR65
Submitted on: 3/8/2017
Testimony for HUS on Mar 15, 2017 09:30AM in Conference Room 329

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

Comments: I work with adults with intellectual and developmental disabilities. They don't have much. There are few benefits that they get. Any measures that would curtail their very needed benefits or impede their access to medicaid should denied. They deserve better and need better.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly 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.

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 10, 2017 10:45 AM
To: HUStestimony
Cc: blackpono@aol.com
Subject: Submitted testimony for HCR65 on Mar 15, 2017 09:30AM

HCR65
Submitted on: 3/10/2017
Testimony for HUS on Mar 15, 2017 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Pat M.	Individual	Support	No

Comments: I support both HCR65 and HR32 which ask that DHS disregard SSA DAC benefits as would disqualify the person for Medicaid.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly 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.

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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 Friday, March 10 at 9:30am.

Honorable Representatives:

I support both HCR65 and HR32, which would urge the Department of Human Services to disregard so much of the Social Security Disabled Adult Child benefits a person with disabilities might receive as would disqualify the person for Medicaid. If a person receives Disabled Adult Child benefits that cause his or her income to exceed Medicaid income limits, the Department now takes all but $469 of his or her benefit as so-called "Medicaid Cost Share" to pay for Medicaid coverage. No one, much less a person with disabilities, can live on $469 a month.

Federal Social Security law requires most states to disregard such Disabled Adult Child benefits to the extent it disqualifies the person for Medicaid. Federal law gives Hawaii the option to do so, but the Department has not.

I am the parent of a disabled adult who receives a Social Security Disabled Adult Child benefit on my account that enable my child to live in a developmental disabilities domiciliary home. I fear that upon my death my child's benefits may increase, as sometimes happens, and exceed the Medicaid income limitation.

Please urge the Department to adopt an appropriate rule disregarding so much of the Disabled Adult Child benefits as would disqualify my child from Medicaid and reduce his or her benefits to $469.

Thank you for the opportunity to submit testimony.

Kind Regards,

Deborah Kobayakawa
Parent and Legal Guardian of Ian Nieblas

Phone: 808-271-3887
Email: alohadebbk@yahoo.com

From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 13, 2017 2:43 PM
To:	HUStestimony
Cc:	cwaki1@gmail.com
Subject:	Submitted testimony for HCR65 on Mar 15, 2017 09:30AM

HCR65
Submitted on: 3/13/2017
Testimony for HUS on Mar 15, 2017 09:30AM in Conference Room 329

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

Comments: 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 Friday, March 10 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.

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 Friday, March 10 at 9:30am.

Honorable Representatives:

I am writing to lend support for both HCR65 and HR32, that would allow the Department of Human Services to exclude much of the Social Security Disabled Adult Child benefits they receive in order to protect their Medicaid benefits. If a person receives Disabled Adult Child benefits that cause their income to exceed the Medicaid income limits, the Department now takes everything but $469 as their Medicaid cost share. It is unreasonable to expect an individual, especially one with disabilities to live on $469 a month in Hawaii.

Federal Social Security law requires most states to disregard such Disabled Adult Child benefits to the extent that it disqualifies the individual for Medicaid services. Federal law also gives Hawaii the option to disregard it, yet the DHS has chosen to ignore this option.

The Department's position is not reasonable, and I urge them to adopt HCR65 and HR32 to exclude those benefits that are in excess of the Medicaid threshold and to allow benefits to continue. Leaving vulnerable individuals totally indigent only creates more problems and places them at greater risk for physical and mental decline when they are unable to access medical care and services.

Thank you for the opportunity to submit testimony.

DAVID Y. IGE
GOVERNOR

PANKAJ BHANOT
DIRECTOR

BRIDGET HOLTHUS
DEPUTY DIRECTOR

LATE

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

March 15, 2017

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

FROM: Pankaj Bhanot, Director

SUBJECT: **HCR 65/HR 32 – 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 15, 2017, 9:30 a.m.
Conference Room 329, State Capitol

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

PURPOSE: The purpose of House Concurrent Resolution 65 and House Resolution 32 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 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.

The Arc in Hawaii

Achieve with us.

LATE

March 15, 2017

The Honorable Dee Morikawa, Chair
House Committee on Human Services
29th Legislature
State Capitol
State of Hawaii
415 South Beretania Street
Honolulu, Hawaii 96813

RE: HCR 65 and HR 32 –
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 15, 2017. 9:30 AM
Conference Room 329

Dear Representative Morikawa and Members of the Committee;

The Arc in Hawaii **STRONGLY SUPPORTS** both HCR 65 and HR 32.

The resolution 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.

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, but no action has been taken.

It should be noted that individuals in this predicament do not seek a windfall, only justice. As Disabled Adult Child benefits kick in or are increased, SSI benefits and then the State Supplement to SSI are reduced dollar for dollar. In the rare instances where Disabled Adult Child benefits exceed the Medicaid income standard after application of the income disregard, the rules may be written to require the individual to reimburse the excess income to the State as Cost Share or spend down to ensure there is no windfall.

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 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 HCR 65 and HR 32.

Lei Fountain
Executive Director

Thomas P. Huber

Thomas Huber
Vice President