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April 19, 2022

TO: The Honorable Joy A. San Buenaventura, Chair
Senate Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: **HCR 117 HD1 - REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO IMMEDIATELY CEASE INTERCEPTING SOCIAL SECURITY PAYMENTS FOR CHILDREN IN FOSTER CARE.**

Hearing: April 20, 2022, 3:00 p.m.
State Capitol Conference Room 329 and
Via videoconference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) Human Services (DHS) appreciates the resolution's intent and provides comments.

PURPOSE: The purposes of the resolution are for the Department of Human Services (DHS) to immediately cease intercepting Social Security payments for children in foster care; and deposit Social Security payments for foster children into savings accounts, which the children may access when they return to their families, are adopted, or age out of foster care.

Currently, as allowed by federal rules, DHS uses the Social Security Administration (SSA) benefits payments of a child in foster care to cover the costs of caring for the child; this is the purpose of the benefits. If the amount of the SSA benefit is less than Child Welfare Services (CWS) foster board payment, CWS uses State general funds to pay the difference. Conversely, if the Social Security benefit amount exceeds the CWS foster board payment, the Department sets the money aside for each child's conserved funds (trust account). While the child is in CWS care, the Department's Social Services Division's Management Information and Compliance Unit (MICU) tracks the SSA benefits.

When the child exits foster care, DHS returns any balance left in their trust account to the local SSA office. Then, a letter is sent to the child's caregivers (or to the young adult if they exited care at age 18 or later). The letter explains that they should apply for their unspent funds and the monthly benefits for the child through the SSA.

Further, federal banking regulations require a parent or guardian to open a bank account on behalf of a minor. The Department does not currently have the human resources to open individual bank accounts for children in foster care who receive SSA benefits and transfer custodians when the child exits foster care.

For the Legislature's information, per SSA rules, a child can access survivor benefits until high school graduation or two months after reaching age 19, whichever date comes first. Disability benefits the child receives based upon a childhood disability may continue after 18 if the disability began before age 22.

Thank you for the opportunity to provide testimony on this resolution.

HCR-117-HD-1
Submitted on: 4/15/2022 9:11:04 AM
Testimony for HMS on 4/20/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Testifying for Hawaii Family Advocacy Team	Support	Written Testimony Only

Comments:

Senator San Buenaventura,

I am confused as to why this topic is in the form of a request instead of a demand.

Excerpt from Purpose v. Power by Daniel Hatcher

"If a foster child has an enforceable right to force the state to pay his foster care maintenance payments, it would be nonsensical-and legally incorrect-for the state to have a countervailing ability to force the child to pay those same costs. Moreover, states participating in the Title IV-E program are prohibited from using other federal funds as part of the required state spending a state must incur to secure the federal matching payments.127 The federal regulatory requirements governing matching grant programs require that "a cost sharing or matching requirement may not be met by costs borne by another Federal grant."128 Also, the SSA's Office of Inspector General explains that Title IV -E payments are intended to be a match for the state's own spending on a child's foster care, so states are prohibited from using other federal funds like Social Security survivor benefits (OASDI benefits) as part of their share of the costs of providing care: Contrary to Federal regulations, HI-DHS [Hawaii Department of Human Services] used OASDI benefits to partially reimburse itself for the foster care payments it disbursed to the children's providers. HI-DHS was unaware that it could not reimburse itself for the State's share of Title IV-E costs from a child's OASDI benefits .... Federal regulations prohibit HI-DHS from using a child's OASDI benefits to reimburse itself for the State's share of Title IV-E costs. To receive Federal Title IV-E benefits, HI-DHS must pay its share of the foster care costs with State funds. Therefore, the OASDI benefits for a child who also receives Title IV-E benefits must be saved or used for a child's other needs."