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**RE: L.D. 52 – SUPPORT** for "An Act to Require the Department of Health and Human Services to Apply for Federal Benefits on Behalf of Children in the Department's Custody Who May Be Eligible for Those Benefits"

March 12, 2024

Senator Ingwersen, Representative Meyer, members of the Health and Human Services Committee, my name is Molly Owens and I am offering testimony as Chief of the Parents' Counsel Division of the Maine Commission on Public Defense Services in support of L.D. 52, "An Act to Require the Department of Health and Human Services to Apply for Federal Benefits on Behalf of Children in the Department's Custody Who May Be Eligible for Those Benefits".

The Parents' Counsel Division's mission is to protect parents' rights and support family integrity. In furtherance of that, it is our position that children who are in state custody and receiving, or are eligible to receive federal benefits, including SSI, survivors' benefits, or benefits for children of veterans, ought to have that money set aside and protected for when they transition out of foster care – whether that is when they age out or when they are reunified with their family. Currently, there is no federal or state law mandating that the agencies that assume the role of guardian when children come into custody, investigate whether a child is eligible for federal benefits, and if so, apply for those benefits. There is also no federal or state law in place that mandates how those benefits, if received, are preserved for a child in custody.

The Children's Advocacy Institute at the University of San Diego School of Law has done significant research and advocacy around this issue and in 2024 published a comprehensive report about the types of benefits children receive, the state of federal law, an evaluation of how all 50 states and the District of Columbia fare in terms of how they protect or don't protect federal benefits for children in foster care, and the challenges youth transitioning out of foster care experience. At the time of publishing, Maine came in with a failing grade in its protection of benefits for children in state custody. Arizona and Washington D.C

are at the forefront of protecting foster children's federal monies and about 10 other states have enacted some type of reform. [Foster Care or Foster Con Report FINAL.pdf \(sandiego.edu\)](#) (charts begin on page 32 of report).

Right now, in Maine, when a child who receives federal benefits enters state custody or when DHHS applies for and receives benefits on behalf of an eligible child, DHHS assumes the role of representative payee for that child. In its role as representative payee, DHHS uses the child's money - typically \$700 or more per month - to pay for the child's foster care, leaving nothing for the child when they transition out of custody. The result of this practice is, in reality, that children with disabilities or with a deceased parent, who are already disadvantaged and traumatized by being removed from their home, placed in state custody, and who statistically experience higher rates of poverty, incarceration, early pregnancy, homelessness, and mental health and substance use disorders because they are in state custody, are further disadvantaged by having to pay for their own foster care. This disparate treatment means they lose the financial benefits specifically designed to help them, putting them in a worse situation than their non-disabled peers who are in foster care and their peers who have never been in foster care.

While there are strong constitutional arguments for why LD 52 ought to pass and why DHHS should be required to protect children's federal benefits once awarded, the equitable argument is just as strong. Children in state custody experience significant barriers. Children with disabilities or with a deceased parent experience additional barriers. By mandating that DHHS set aside children's benefits for when they transition out of state custody, the legislature would be attempting to level the playing field, giving children in state custody a better chance at equity, stability, security and opportunity when they transition out of state custody. This bill is the right thing to do for Maine's children who are in the most need of financial resources and stability, and it will also serve as a model for other states currently contemplating legislation to secure children's rights and access to the benefits to which they are entitled.

The Parents' Counsel Division supports LD 52 with a suggested amendment that the bill include language that children who already receive benefits when they enter state custody, shall also have those benefits protected. We encourage you to vote ought to pass.

Sources:

Children's Advocacy Institute has done a lot of good research about this issue nationwide

[https://www.sandiego.edu/cai/advocacy/youth-benefits/  
Foster\\_Care\\_or\\_Foster\\_Con\\_Report\\_FINAL.pdf](https://www.sandiego.edu/cai/advocacy/youth-benefits/Foster_Care_or_Foster_Con_Report_FINAL.pdf) (sandiego.edu)

Articles:

The Seattle Times, January 24, 2025: <https://www.seattletimes.com/seattle-news/politics/wa-diverts-federal-benefits-meant-for-foster-youth-that-practice-may-end/>

NY Times, May 26, 2024: <https://www.nytimes.com/2024/05/26/business/foster-children-federal-benefits.html?smid=nytcore-ios-share&referringSource=articleShare&sgrp=c-ch>

The Marshall Project, May 17, 2021: <https://www.themarshallproject.org/2021/04/22/foster-care-agencies-take-thousands-of-dollars-owed-to-kids-most-children-have-no-idea>

SSA guidance letter 7/25/2024: <https://perma.cc/5DGY-ZJUZ>

Respectfully,

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