Janet T. Mills
Governor

Sara Gagné-Holmes
Commissioner

Maine Department of Health and Human Services
Child and Family Services
11 State House Station
2 Anthony Avenue
Augusta, Maine 04333-0011
Tel.: (207) 624-7900; Toll Free: (877) 680-5866
TTY: Dial 711 (Maine Relay); Fax: (207) 287-5282

Testimony of the Office of Child and Family Services
Maine Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In opposition to LD 52, *An Act to Require the Department of Health and Human Servies to Apply for Federal Benefits on Behalf of Children in the Department's Custody Who May Be Eligible for Those Benefits*

Sponsor: Representative Roeder
Hearing Date: March 12, 2025

Senator Ingwersen, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, my name is Bobbi Johnson, and I serve as the Director of the Office of Child and Family Services (OCFS) in the Maine Department of Health and Human Services. I am here today to testify in opposition to LD 52, *An Act to Require the Department of Health and Human Servies to Apply for Federal Benefits on Behalf of Children in the Department's Custody Who May Be Eligible for Those Benefits.*

OCFS agrees that providing support for children in care and those exiting care at the age of 18 is of critical importance. This bill would require the Department to apply for federal benefits on behalf of a child in state custody. It would prohibit the use of those benefits to pay for or reimburse the Department for the cost of the child's care. Instead, the Department would be required to establish a special-needs trust to use and conserve the child's benefits. Furthermore, the bill would require the Department to provide training to children who receive federal benefits, Department staff, and representative payees for children. OCFS estimates this bill would come at a cost of $3.3 million due to the loss of OCFS' ability to use federal benefits to pay for the costs associated with caring for a child in state custody, the staff required to create and administer special-needs trusts on behalf of all children who receive federal benefits, and the cost of providing training as required under this proposal.

OCFS already has a structure in place to apply for federal benefits when it is believed a child may qualify for them, but we oppose the prohibition on the use of these federal benefits to pay for the cost of caring for a child in state custody. The intent of Social Security and Veteran's Affairs benefits is to assist with the cost of caring for a child, regardless of who is responsible for the care and custody of that child. The intent is not to provide future resources. The benefits are meant to meet the immediate needs of the child if a parent is deceased, or the child meets the criteria for disability. The Social Security Administration explicitly states that the funding is to be used to care for the child due to disability or in lieu of the support that otherwise would have been provided by a deceased parent. This intent is further demonstrated by the fact that the

Social Security Administration rules terminate disability benefits for a child once that child reaches $2,000 or more in assets.
OCFS is currently using these funds appropriately and responsibly for the children it serves. At the end of 2023, OCFS participated in a federal Social Security audit of our use of these funds for children in care and SSA made no findings. Disallowing the Department's use of these benefits to reimburse the costs of care for a child in custody would shift expenses to the Maine taxpayers.

The direction to establish special-needs trusts on behalf of children is intended to avoid the $2,000 asset cap for disability benefits. When a similar proposal was brought forward last year OCFS conducted research into how other states that have enacted policies similar to the one proposed. We learned that there was little information available on how other states were doing this, and no guidance available from SSA on the allowability or administration of these trusts in a manner that would maintain ongoing benefits. As such, OCFS has done its best to create a fiscal estimate based on the work we believe would be required and the corresponding staff necessary to complete that work. This includes:

1. Establishing a trust for each child (which would likely require outside counsel to advise on the specific legal nuances of the trusts, particularly since these trusts have the potential to impact access to other important benefits like MaineCare, housing, and other social service programs with asset and income limits).
2. Making manual individual deposits of checks for each child in the correct trust. Based on current numbers this would be approximately 600 individual deposits per month.
3. Administering the funds for each account.
4. Transferring the accounts when a child leaves custody to reunification, guardianship, or adoption.

OCFS appreciates that this bill includes training requirements as these would be of particular importance if these changes are enacted.

Significant work is also already being done within OCFS to equip older youth in care (those age 14 and older) with skills related to financial literacy, saving, and managing money. For the past few years, OCFS has contracted with Jobs for Maine's Graduates (JMG) to provide financial literacy training across the state. Youth from care between the ages of 14 and 26 and who spent at least one day in foster care after their 14th birthday (even if they exit care to permanency or guardianship) are eligible to participate. OCFS also helps to facilitate the Opportunity Passport® (OP) program which helps youth currently in care and foster care alumni develop a general understanding of personal finances and financial goal setting. Youth attend two sessions of OP training within 30 days of each other. The training focuses on helping youth develop and practice critical financial skills related to saving, budgeting, understanding the difference between wants and needs, and future goal setting. Youth who participate in both sessions earn a one-time $100 stipend. In addition, youth who have completed both training sessions and who have a reliable source of income can enroll in OP's Matched Savings program. Participants open a bank account at a financial institution of their choice and money saved by the participant is matched dollar for dollar up to $1,000 per year.

As I stated earlier, OCFS currently applies for Social Security benefits on behalf of children in care when it is believed they may qualify. The money is used as intended to provide for the care of the child. There are a variety of sources of financial support for young adults when they exit the Department's custody depending on the type of permanency option they exit to.

For example, when children exit care to reunification, the parents become the payee for any federal benefits the child may be entitled to assist with their care. When children exit care to guardianship or adoption that process includes the negotiation of an agreed upon adoption subsidy which is a monthly payment from the Department to the adoptive parents to assist in caring for the child, as well as ongoing access to MaineCare and Social Security benefits. When youth age out of care at the age of 18 they have the option to continue receiving assistance (including financial assistance) from the Department up to age 23 through a Voluntary Extended Care Agreement and are eligible to receive MaineCare up to age 26.

We believe that the comprehensive federal Social Security audit of OCFS' administration and use of benefits for children in care which found that OCFS is in full compliance with all requirements and expectations demonstrates that the Department is already using these benefits in a manner that aligns with the intended purpose of these benefits and would urge the Committee to vote Ought Not to Pass on LD 52.

Thank you for your time and attention. I would be happy to answer any questions you may have and to make myself available for questions at the work session.