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Testimony in Support of HB 2549
House Social Services Budget Committee
February 19, 2020

Chairman Carpenter and members of the committee:

My name is Mike Burgess. I am the Director of Policy & Outreach at the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities.

First thank you for raising the Protected Income Level (PIL) last session.

I also want to applaud the Chairman for requesting this bill and having this hearing today. Prior to last year, the PIL had not been increased for more than a decade as Kansas was one of a handful of states who had no methodology for calculating it.

When KDHE previously researched how other states handle the PIL, Kansas is in a very small minority of states that do not have a methodology for calculating the PIL. The vast majority of states tie it to a percentage of SSI. With half of them, including a number of our neighbors, setting it at 300% of SSI.

With the work you did last year, Kansas is now half-way toward meeting that “magic number” of 300% of SSI for the PIL. Setting PIL at 300% of SSI would break down a huge barrier preventing Kansans with disabilities on HCBS Waiver programs from becoming employed.

Here is why having a Protected Income Level of anything less than 300% of SSI is a huge barrier to Kansans with disabilities becoming employed. The SSI amount in 2020 is \$783. In general, to qualify for an HCBS Waiver, your monthly income (after spend down) cannot be more than \$2,349 (which is 300% of SSI). Let me walk you through how having a PIL less than 300% is a barrier to employment. For sake of illustration, let’s say you are a spinal cord injury survivor, a person with quadriplegia who uses a powerchair, and you have a job. Let’s say after you satisfy your spend down requirements, the net amount of income is \$2,349 per month. A key reason why you have a job and you can get out of bed in the morning are the Physical Disability HCBS Waiver services you receive (you have someone come over and help you transfer from bed to your powerchair, assist you with other transfers, like toileting, and do other personal care assistance so you can do your activities of daily living to get out of the house and keep your job).

Under this example with this bill where the PIL is 150% of SSI, you would have \$1,195 of your \$2,349 income protected (150% of \$783 SSI + the \$20 disregard = \$1,195 is protected). That means you would WRITE A CHECK to the State of Kansas for the rest of your income – \$1,154 – which is the difference between the federally established level necessary to qualify for the HCBS Waiver (which is 300% of SSI,

or \$2,349 per month) and the amount of your income that is “protected” (which in Kansas is 150% of SSI, or \$1,195 per month). Do you see how this is a huge barrier to employment? As a person with a disability why would you continue to work enough hours to earn \$2,349 per month? Quite simply, and logically, you wouldn't, because Kansas only protects \$1,195 of your income. For every dollar of income you make over \$1,195 per month, you are giving each and every one of those dollars back to the State of Kansas.

By increasing the Protected Income Level (PIL) to 300% of SSI, like 25 other states already do, you would provide a huge incentive for Kansans with disabilities on HCBS programs to work and maximize their employment. Remember, the unemployment rate is extremely low in Kansas. Kansans with disabilities are great, hard-working and reliable employees. Unfortunately, as long as the PIL is less than 300% of SSI, you will have a built in barrier to having Kansans with disabilities on HCBS Waivers working any amount over the Protected Income Level. For only \$4.44 million SGF, Kansas can join the other 25 states in raising the Protected Income Level to 300% of SSI, which is the same level the federal government sets to qualify for the HCBS Waivers. That would create one single “finish line” and provide a great incentive for Kansans with disabilities on HCBS Waivers to work. The single “finish line” – if you qualify for HCBS Waivers, you can work as much as you want while staying within the limits to maintain HCBS qualification. Raising PIL to 300% of SSI would eliminate the current red tape that is a disincentive to working for people with disabilities.

I have attached is a chart prepared by KDHE staff that lists the protected income levels and methodology is all 50 states. **Please note this was prepared prior to last year's increase to \$1,177, but does give context about the methodology other state use to calculate the PIL.**

Thank you for the opportunity to support HB 2549 and encourage you to amend it to increase the PIL to 300% and then recommend it favorably as amended. I would be happy to stand for questions at the appropriate time.

Long-Term Services and Supports Needs Allowances – 50 States

04/27/2018

	Nursing Home PNA	HCBS MNA	Methodology to Calculate HCBS MNA
Alabama	\$30 (\$120 if VA)	\$2,250	300% of SSI (Miller Trust* = \$0 Obligation)
Alaska	\$200	\$1,656	none
Arizona	\$112.50	\$2,250	300% of SSI
Arkansas	\$40	\$2,250	300% of SSI (Miller Trust* = \$0 Obligation)
California	\$35	\$2,250	300% of SSI
Colorado	\$84.41 (\$90 if VA)	\$2,250	300% of SSI
Connecticut	\$60	\$2,250	300% of SSI
Delaware	\$99	\$1,875	250% of SSI
District of Columbia	\$70	\$2,250	300% of SSI
Florida	\$130	\$1,005	100% of FPL
Georgia	\$50	\$750	100% of SSI
Hawaii	\$50	\$1,005	100% of FPL
Idaho	\$40	\$750	100% of SSI
Illinois	\$30	\$750	100% of SSI
Indiana	\$52	\$2,250	300% of SSI
Iowa	\$50	\$2,250	300% of SSI
Kansas	\$62	\$727	none
Kentucky	\$40	\$750	100% of SSI
Louisiana	\$38	\$2,250	300% of SSI
Maine	\$70	\$1,005	100% of FPL
Maryland	\$77	\$2,250	300% of SSI
Massachusetts	\$72.80	\$2,250	300% of SSI
Michigan	\$60	\$2,250	300% of SSI
Minnesota	\$99	\$990	none
Mississippi	\$44 (\$90 if VA)	\$2,250	300% of SSI (Miller Trust* = \$0 Obligation)
Missouri	\$50	\$1,311	none
Montana	\$50	\$525	Medically Needy PIL
Nebraska	\$60 (\$90 if VA)	\$1,005	100% of FPL
Nevada	\$35	\$2,250	300% of SSI (Miller Trust* = \$0 Obligation)
New Hampshire	\$70 (\$90 if VA)	\$2,250	300% of SSI
New Jersey	\$50	\$2,250	300% of SSI
New Mexico	\$69	\$2,250	300% of SSI (Miller Trust* = \$0 Obligation)
New York	\$50	\$842	none
North Carolina	\$30	\$1,005	100% of FPL
North Dakota	\$65	\$835	Medically Needy PIL
Ohio	\$45	\$1,463	65% of 300% of SSI
Oklahoma	\$50	\$1,125	150% of SSI
Oregon	\$61.38 (\$90 if VA)	\$2,000	none
Pennsylvania	\$45	\$2,250	300% of SSI
Rhode Island	\$50	\$1,005	100% of FPL
South Carolina	\$30	\$2,250	300% of SSI
South Dakota	\$60	\$750	100% of SSI
Tennessee	\$50	\$2,250	300% of SSI
Texas	\$60	\$2,250	300% of SSI
Utah	\$45	\$1,005	100% of FPL

Vermont	\$47.66	\$1,025	Medically Needy PIL
Virginia	\$40	\$2,250	300% of SSI
Washington	\$58.43	\$1,005	100% of FPL
West Virginia	\$50 (\$90 if VA)	\$750	100% of SSI
Wisconsin	\$45	\$2,250	300% of SSI
Wyoming	\$50	\$2,250	300% of SSI (Miller Trust* = \$0 Obligation)

* A Miller Trust [also known as a Qualified Income Trust (QIT)] allows an individual whose income is in excess of the 300% SSI level to still qualify for Long Term Care coverage, including HCBS. The individual's income is paid into the trust and then the trust only pays out an amount equal to the 300% SSI level. Any "excess" income is retained in the trust.