
A BILL FOR AN ACT

RELATING TO AN EARNED INCOME DISREGARD PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known and may be cited as
2 "Kal's Law".

3 This Act is named after Kal Warrington Silvert, who was
4 born with spinal muscular atrophy type 2, which weakens the
5 signal that is sent from an individual's brain to their muscles
6 and results in minimal use of the individual's body. Kal
7 required full time nurses under the medicaid waiver program and
8 would not be able to gain employment. Kal dreamed of becoming a
9 professor and writer but knew that was unobtainable because, in
10 order to live, Kal had to financially remain below the poverty
11 level to retain his medicaid benefits. This Act serves as an
12 intermediate step before the implementation of a full medicaid
13 buy-in program and will be able to assist individuals like Kal
14 in earning a comfortable living wage while still retaining their
15 medicaid benefits.

16 SECTION 2. The legislature finds that Act 200, Session
17 Laws of Hawaii 2012, established a joint legislative task force
18 to explore the possibility of implementing a medicaid buy-in



1 program for individuals with disabilities who either are not
2 working or are currently working and would like to earn more
3 income, based upon Hawaii's current medicaid income and asset
4 limits, subject to approval of the federal Centers for Medicare
5 and Medicaid Services. Medicaid buy-in task force meetings have
6 been convened by the legislature on a regular basis since 2012,
7 and several bills have been introduced to implement a medicaid
8 buy-in program. The medicaid buy-in task force has supported
9 the medicaid buy-in program as a means to enable workers with
10 disabilities to be employed while protecting their medical
11 benefits and supports.

12 The legislature also finds that the medicaid buy-in task
13 force has recommended an alternate approach as an interim step
14 to a medicaid buy-in program. The alternative will allow
15 individuals with disabilities to earn income and not lose their
16 medicaid benefits, which is a risk given current medicaid
17 eligibility rules. While this interim program will not provide
18 the full benefits of a medicaid buy-in program, such as
19 disregarding the individual's assets, it will increase the
20 amount of income that an individual may earn while retaining
21 medicaid eligibility.



1 According to the medicaid buy-in task force, Hawaii is one
2 of four remaining states in the United States that has not
3 adopted this group coverage for working people with
4 disabilities; the other three states are Alabama, Florida, and
5 Tennessee. Persons with disabilities regularly report to case
6 workers that they cannot accept work opportunities because they
7 would lose their benefits. A medicaid buy-in program would
8 allow working people with disabilities to retain the medical
9 coverage they need, as primary or secondary coverage, by paying
10 premiums on a sliding scale, as defined by the state and federal
11 government. While the Hawaii Prepaid Health Care Act guarantees
12 private health insurance to employees who work twenty hours or
13 more a week for four consecutive weeks, the Prepaid Health Care
14 Act may not meet the needs of working people with disabilities
15 who are unable to work the minimum required twenty hours per
16 week. Of those who do work the minimum hours to qualify for the
17 Prepaid Health Care Act, many still need to retain their
18 medicaid coverage as secondary coverage to access home and
19 community-based services.

20 The legislature concludes that it is advantageous for
21 economic development in the State and in the best interests of



1 Hawaii's citizens with disabilities to establish programs and
2 policies that encourage their employment. The purpose of this
3 Act is to require the department of human services to implement
4 an earned income disregard program as an intermediate step to
5 implementing a full medicaid buy-in program.

6 SECTION 3. (a) The department of human services shall
7 allow an earned income disregard of one hundred thirty-eight per
8 cent of the federal poverty level for people with disabilities
9 who are between the ages of sixteen and sixty-four years, or a
10 method of similar intent, when determining eligibility for
11 medicaid.

12 (b) The department may adopt or amend its administrative
13 rules in accordance with chapter 91, Hawaii Revised Statutes, as
14 necessary to implement this Act.

15 (c) The department shall evaluate the earned income
16 disregard program at least annually and assess whether, when,
17 and how a full medicaid buy-in program may be implemented.

18 (d) The department shall submit a report to the
19 legislature no later than twenty days prior to the convening of
20 the regular sessions of 2020, 2021, and 2022, providing an
21 update on the earned income disregard program and the viability



1 of implementing a full medicaid buy-in program. The report
2 shall include the department's findings, recommendations, and
3 any proposed legislation, and the report shall identify
4 resources needed to implement a full medicaid buy-in program.

5 (e) The department is encouraged to collaborate with the
6 university of Hawaii center on disability studies for technical
7 assistance and program evaluation.

8 SECTION 4. This Act shall take effect upon approval;
9 provided that the earned income disregard program established in
10 section 3 of this Act shall take effect upon approval by the
11 Centers for Medicare and Medicaid Services.



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Report Title:

Medicaid; Earned Income Disregard Program; Kal's Law

Description:

Requires the Department of Human Services to implement an earned income disregard program as an intermediate step to implementing a medicaid buy-in program. Requires reports to the legislature. Takes effect upon approval by the Centers for Medicare and Medicaid Services. (CD1)

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