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# 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 waver 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



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

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



1 amount of income that an individual may earn while retaining  
2 medicaid eligibility.

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



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

8           SECTION 3. (a) The department of human services shall  
9 disregard income earned by otherwise medicaid-eligible  
10 individuals with disabilities who are between the ages of  
11 sixteen and sixty-four when determining eligibility for  
12 medicaid.

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

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

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



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

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

9 SECTION 4. This Act shall take effect on January 1, 2059;  
10 provided that the earned income disregard program established in  
11 section 3 of this Act shall take effect upon approval by the  
12 Centers for Medicare and Medicaid Services.



**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. (SB330 HD1)

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