



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 25, 2019

TO: The Honorable Representative Sylvia Luke, Chair
House Committee on Finance

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 330 SD 1 HD 1– RELATING TO PERSONS WITH DISABILITIES**

Hearing: Wednesday, March 27, 2019, 2:30 p.m.
Conference Room 329, State Capitol

DEPARTMENT’S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure, and offers comments and an amendment.

PURPOSE: The purpose of the bill is to require the Department of Human Services (DHS) to implement an earned income disregard program as an intermediate step to implementing a full Medicaid buy-in program.

This bill is similar to SB 2050 (2018) that required DHS to implement an earned income disregard program as an interim step to implementing a full Medicaid Buy-in program. However, it did not pass. The Medicaid Buy-In task force, which DHS Med-QUEST division (MQD) has participated in since its inception, had been working to implement a Medicaid Buy-In program in Hawaii. However, despite several bills to implement, the program was not funded and thus, not implemented.

For that reason, the task force recommended taking the interim step of MQD implementing another earned income disregard that would allow individuals with disabilities to earn income and not lose their Medicaid benefits, which they would be at risk of given current Medicaid eligibility rules. While this interim program would not provide the full benefits of a Buy-in program, such as also disregarding the assets of the individual, it would

increase the amount of income an individual could earn while retaining Medicaid eligibility, which would be a positive step.

Under the original language of this bill, DHS was to “disregard an individual's earned income up to an amount equal to 138 percent of the federal poverty line for purposes of determining [M]edicaid eligibility.” That language was amended in SB330 SD1 HD1 to “disregard income earned by otherwise [M]edicaid-eligible individuals with disabilities who are between the ages of 16 and 64 when determining eligibility for [M]edicaid.”

Unfortunately, DHS is unable to estimate what the fiscal or policy impact would be at this time from the change to include “income” rather than to include income up to a defined income limit.

DHS remains supportive of an earned income disregard program in principle. DHS suggests a friendly amendment to Section 3(a), changing “shall disregard income” to “may disregard income.” This change would allow DHS to proceed with creating an earned income disregard program with the support of the legislature, while also giving DHS the flexibility to do so in a budget neutral way.

The new suggested language for Section 3(a) is as follows:

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

SB330 SD1 HD1 also has MQD reporting back on the impact of implementing the income disregard as well as annually evaluating the feasibility of implementing a full Medicaid Buy-In program. We are also encouraged to work with the University of Hawaii’s Center on Disability Studies. Although this would add to the administrative requirements, it would be feasible for us to do this. We would suggest amending the language of the bill to reflect that Section 3(c) and Section 3(d) are conditional upon DHS implementing an earned income disregard program.

Thank you for the opportunity to provide comments on this measure.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
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March 27, 2019

The Honorable Representative Sylvia Luke, Chair
House of Representatives Committee on Finance
Thirtieth Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Luke and Members of the Committee:

SUBJECT: SB 330 SD1 HD1- Relating to an earned income disregard program

The State Council on Developmental Disabilities **STRONGLY SUPPORTS SB 330 SD1 HD1**. The bill requires the Department of Human Services to implement an earned income disregard program as an intermediate step to implementing a Medicaid buy-in (MBI) program. Requires reports to the legislature. Takes effect upon approval by the Centers for Medicare and Medicaid Services.

For six years following the passing of Act 200, Session Laws of Hawaii 2012 to form a MBI Task Force, the Task Force meetings were convened, after six years, a recommendation, that is considered a feasible and practical option as an interim step to implement a full Medicaid buy-in program, was recommended by the Department of Human Services (DHS) to implement an Earned Income Disregard Program for workers with disabilities. The Council strongly supports this option as an interim mechanism, for three years it remains supported as a workable option by DHS.

The Council has discussed the current language of SB 330 SD1HD1 with DHS. We support their friendly recommendation to revise "shall disregard income" to "may disregard income". As DHS has commented, an amendment is needed to allow DHS to proceed with creating an earned income disregard program with the support of the legislature, while also giving DHS the flexibility to do so in a budget neutral way. We will continue to work with DHS and other Task Force members to implement an earned income disregard program as an intermediate step toward a full Medicaid buy-in program.

Thank you for the opportunity to submit testimony in **strong support of SB330 SD1 HD1**.

Sincerely,

Daintry Bartoldus
Executive Administrator

SB-330-HD-1

Submitted on: 3/25/2019 11:02:39 AM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments:

SB-330-HD-1

Submitted on: 3/26/2019 1:08:19 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alexander Silvert	Individual	Support	Yes

Comments:

I write as the father of Kal Warrington Silvert. I am extremely honored that this Bill will be referred to as "Kal's Law." He would have been proud that a Bill named in his honor will help so many people who find themselves wanting to be working and productive members of society but are left out simply because they would be financially disqualified from receiving Medicaid assistance. This Bill represents an important and necessary intermediate step to a full Medicaid buy-in program.

Kal came into this world with SMA Type 2, a motor neuron disease which left him unable to move his arms or legs. He learned at an early age to use a motorized wheelchair and with the assistance of 24 hour aides, successfully graduated from Iolani and went on to attend the University of Hawaii at Manoa. He aspired to be a professor of political science and to be a writer. He had been asked to write for the UH newspaper right before he passed away.

While Kal did not ask to come into this world with a physical limitation, he decided early on, as do many people in such a situation, to live his life to the fullest. To strive to learn. To appreciate the world around him. He had a sharp intellect and an even sharper wit. Most importantly, his very being seemed to inspire people around him. From his schoolmates at Aikahi Elementary School who cheered as he was carried up to his science class on the second floor, to his friends who were drawn to him and treated him like just another kid and who found themselves helping him out without a second thought so he could play or work with them.

But when Kal found out that he would lose his Medicaid assistance if he accomplished the goals he had set out for himself, it was a huge psychological blow not only to him, but to his friends and family alike. Although we are an upper middle class family, we could not afford the expense to pay for year long, 24 hour care. It was simply an impossibility. As a family, we could not afford for Kal to get a job, have an income, and then lose his Medicaid coverage. We swore we would fight this battle when it became necessary but luckily, this Bill's time has arrived.

If this Bill becomes law, it will not only help so many people financially, but psychologically as well. A person's self-worth has no dollar figure. A person should not have to worry about being able to be a productive, successful and happy member of our society simply because they were born into this world with a physical or mental

limitation. While we are proud of Kal's accomplishments and that this Bill is named in his honor, we are also proud of our Legislature for making this happen. Maholo for your consideration and for your support.

Alexander Silvert

241 Ilihu Street

Kailua, Hawaii 96734

SB-330-HD-1

Submitted on: 3/26/2019 1:37:24 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana L. Warrington	Individual	Support	Yes

Comments:

I write as the mother of Kal Warrington Silvert.

When our son Kal was 6 months old he was diagnosed with Spinal Muscular Atrophy (SMA) Type 2, and by his first birthday we knew he would never walk. We got him baby blue shoes anyway because we believed that he would “walk” some day in his own way, find his place in the world, and make a difference.

When Kal was faced with an obstacle, and there were many, from physical challenges to inaccessibility, he would say “it’s not a big deal, mom. I can handle it.” Always not wanting to draw any attention to himself. But when he realized during college that he could never work and keep his Medicaid benefits, that if he worked he would lose his benefits and if he lost his benefits he could not live, this one hit harder. He said it wasn’t fair, he wanted to quit, he lost hope, he wanted to give up. No one, much less a child or parent, should fear that their dream of becoming a professor, a writer, cannot ever be realized no matter how hard one worked. But Kal didn’t give up and he continued on in college and we promised together we would help change the law one day.

By supporting and passing this bill, Kals’Law, you are recognizing and restoring hope, dignity, self- determination and the right to choose how to live one’s life, all the while changing many lives.

Thank you for the opportunity to share Kal’s story and thank you for your support and consideration in passing this much needed intermediate step to a full Medicaid buy-in program.

Mahalo,

Diana L. Warrington

241 Iliha Street

Kailua ,Hawaii 96734

HAWAII SELF-ADVOCACY ADVISORY COUNCIL

One Vision - One Voice

Supporting Advocacy, Independence and Choice

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LATE

March 27, 2019

The Honorable Representative Sylvia Luke, Chair
House of Representatives Committee on Finance
Thirtieth Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Luke and Members of the Committee:

SUBJECT: SB 330 SD1 HD1- Relating to an earned income disregard program

The Hawaii Self Advocacy Advisory Council **STRONGLY SUPPORTS SB 330 SD1HD1 "Kal's Law"**. The bill requires the Department of Human Services to implement an earned income disregard program as an intermediate step to implementing a Medicaid buy-in program.

My name is Timothy Renken and I am the President of the Hawaii Self Advocacy Advisory Council, otherwise known as SAAC. We have over 200 members statewide. Our members represent individuals with developmental disabilities and we are in strong support for Hawaii to get the Medicaid Buy-in. We understand for this to happen we first must do an Income Disregard Program where we will get some of our pay disregarded so it will not cause us to lose our Medicaid. This is a great start.

Thank you for this opportunity to submit testimony in **strong support of "Kal's Law"**. We also support and thank you for naming the bill after a strong advocate Kal Silvert.

Sincerely,
Timothy Renken
President

LATE

SB-330-HD-1

Submitted on: 3/26/2019 4:30:45 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Tada	Individual	Support	Yes

Comments:

LATE

SB-330-HD-1

Submitted on: 3/26/2019 5:11:29 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Lloreta	Individual	Support	No

Comments:

I am an individual with a disability from Kauai, this is very important to us. Please pass the income disregard program so we can then work on the Medicaid Buy-in.

Thank you

LATE

SB-330-HD-1

Submitted on: 3/26/2019 10:08:55 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Quiambao	Individual	Support	No

Comments:

Support with May disregard to add flexibility. And strong support of naming the bill after kal silvert.

March 27, 2019

The Honorable Representative Sylvia Luke, Chair
House Committee on Finance
The Thirtieth Legislature
Honolulu, Hawai'i, 96813

LATE

Dear Representative Luke, Representative Cullen and Members of the Committee:

SUBJECT: SB 330 SD1 HD1 – Relating to an earned income disregard program

I **strongly support SB 330 SD1 HD1**. I write to this Committee today as an advocate for Kal, having spent many years as his friend and as his medical aide. I also write as a once disabled individual, fortunate enough to have recovered from a severe spinal cord injury.

I can assure you there is nothing easy about being disabled. Individuals like Kal—and there are countless—overcome enormous obstacles every day to survive, frequently to an invisible audience. The resilience of these individuals is astounding, and the result is a shaping of truly unique personalities like that of Kal. When you perpetually start from a place of disadvantage there is no choice but to be mentally strong.

I give Kal partial credit (whether he wants it or not) for my success in law school because I went to college not once, but twice. He might argue, but then he hasn't seen my student loan debt. I attended all sorts of university classes with Kal, first at Windward Community College and then at Manoa. No matter the subject Kal always excelled, but writing was his outlet. He was creative, thought provoking, and always approached things with wonder and imagination undoubtedly shaped by a lifetime of "what ifs": what if I could walk; what if I could swim in the ocean; what if I could experience everyday things that others do without a thought.

The Earned Income Disregard Program would have allowed Kal to turn at least some of those what ifs into his reality. The ability to work and to support yourself is a fundamental right that should never be anyone's "what if". I want to thank the legislature for giving disabled individuals like Kal the opportunity to pursue a career, to demonstrate their worth to the community, and to do so without having to sacrifice the support system they rely upon simply because they face obstacles that you and I do not.

I **strongly support** this interim step to a Medicaid Buy-In program, and thank the Committee for the opportunity to be heard.

Sincerely,



Kevin A. Yolken