DAVID Y. IGE
GOVERNOR

CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

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

Dir 21.029

December 22, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Enclosed is the following report submitted in accordance with the provisions of Act 155, Session Laws of Hawaii 2019, Related to an Earned Income Disregard Program or "Kal's Law."

In accordance with section 93-16, HRS, the report is available to review electronically at the Department's website, at https://humanservices.hawaii.gov/reports/legislative-reports/.

Sincerely,

Cathy Betts
Director

Enclosure
c:
Governor's Office
Lieutenant Governor's Office
Department of Budget & Finance
Legislative Auditor
Legislative Reference Bureau Library (1 hard copy)

Hawaii State Public Library, System State Publications Distribution Center (2 hard copies, 1 electronic copy)
Hamilton Library, Serials Department, University of Hawaii (1 hard copy)

REPORT TO THE THIRTY-FIRST HAWAII STATE LEGISLATURE 2022

IN ACCORDANCE WITH ACT 155, SESSION LAWS OF HAWAII 2019, RELATED TO EARNED INCOME DISREGARD OR "KAL'S LAW"

**DEPARTMENT OF HUMAN SERVICES MED-
QUEST DIVISION
DECEMBER 2021**

Overview

Governor David Y. Ige signed Act 155, Session Laws of Hawaii 2019 (Act 155), also known as "Kal's Law," into law on June 26, 2019. In Act 155's preamble, the Legislature "concluded that it is advantageous for economic development in the State and in the best interests of Hawaii's citizens with disabilities to establish programs and policies that encourage their employment."

Act 155 requires 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. Under Act 155, DHS is to allow an earned income disregard of one hundred thirty- eight per cent of the federal poverty level for people with disabilities who are between the ages of sixteen and sixty-four when determining eligibility for Medicaid or of similar intent.

Further, DHS is to evaluate the earned income disregard program at least annually. DHS must also assess whether, when, and how a full Medicaid buy-in program may be implemented. Act 155 also requires DHS to submit a report to the Legislature no later than twenty days prior to the convening of the regular sessions of 2020, 2021, and 2022, providing an update on the earned income disregard program and the viability of implementing a full Medicaid buy-in program.

This report is the final report on the earned income disregard program required by Act 155 and includes the successful outcome that DHS received federal authority to implement the intent of Act 155, via the implementation of the "Ticket to Work" program.

Results of DHS Analysis

DHS analyzed the current Medicaid eligibility policy toward disabled individuals who are working. DHS also reviewed other incentives for disabled individuals who are working, such as Plans to Achieve Self-Support (PASS) and continued Medicaid coverage while working under the Section 1619(B) provision of the Social Security Act. DHS found that multiple strategies will be needed to encourage and enable disabled individuals to work and retain their Medicaid benefits. The 2020 and 2021 legislative reports included details on PASS and continued Medicaid coverage under Section 1619(B) of the Social Security Act. This report provides updates on the implementation of Act 155.

DHS established the Act 155 "Ticket To Work" program to encourage certain individuals with disabilities to work without fear of losing their Medicaid coverage. DHS drafted a State Plan Amendment (SPA) in early 2020 to implement an earned income disregard program. However, due to the COVID-19 public health emergency, the SPA was revised to address the changes to Hawaii's economy and changed state budget situation. The SPA revisions changed the Federal Poverty Level (FPL) limit instead of an earned income disregard. The change to the FPL limit accomplishes the same intent using a disregard of earned income as outlined in Act 155.

DHS Med-QUEST Division (MQD) developed and drafted SPA 21-004, "Implement Ticket to Work and Work Incentives Improvement Act (TWWIIA) Basic Eligibility Group (SPA 21-004)," and submitted it to the Centers for Medicare and Medicaid Services (CMS) on December 31, 2020. On May 10, 2021, CMS approved SPA 21-004 with an effective date of January 1, 2021. The approval gave the State the authority to implement coverage of this new group effective January 1, 2021.

SPA 21-004 is under the authority of Section 201 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law no. 106-170) (TWWIIA). TWWIIA does not require set federal income or resource standards for the basic eligibility group and allows states flexibility to determine the income and resource standards that best fit their Medicaid program, rather than using Supplemental Security Income's limits. As described in SPA 21-004, the income standard for this new eligibility group is 138% FPL of net income, and the asset limits are $7,970 for a household of one and $11,960 for households of two. These are the same limits as the Medicare Savings Program resource limits. In the summer and fall of 2021, MQD rolled out policy guidance and training for MQD staff. Additionally, MQD gave presentations to providers and their affiliated staff who work with people with disabilities on this new program.

October 2021 was declared "Disability Employment Awareness Month," which celebrates the unique characteristics, talents, and contributions that individuals with disabilities bring to our community and our economy. A press release sponsored by Hawaii's State Council on Developmental Disabilities included an announcement about activating Kal's Law, allowing individuals with a qualifying disability to work full time at minimum wage without fear of losing their vital state and federal benefit, namely Medicaid.

The press release also announced rolling out the Hawaii ABLE (Achieving a Better Life Experience) Savings Plan program, which allows an individual with a disability to save enough money to move into a rented apartment, purchase a home, plan for a wedding, or plan for a family. Allowing individuals with disabilities to build wealth by saving money is another critical step that supports self-sufficiency and independence so that individuals with a disability do not have to live in poverty to remain eligible for vital means-tested benefits, like Medicaid and Supplemental Security Income. Using an ABLE account, they can save money for their daily needs or invest money for tomorrow. Importantly, money contributed to an ABLE account does not count against any asset limits for state and federal benefits, such as Medicaid and SSI.

In summary, MQD and community advocates have made significant strides in the last year that greatly enhance the ability of people with disabilities to live and work in our state without the fear of losing vital services such as Medicaid, including the implementation of Act 155, Kal's law.

Recommendation

DHS recommends analyzing the implementation of Act 155 for at least three to five years before considering a more expansive Medicaid buy-in program.