

ACT 155

S.B. NO. 330

A Bill for an Act Relating to an Earned Income Disregard Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known and may be cited as “Kal’s Law”.

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

SECTION 2. The legislature finds that Act 200, Session Laws of Hawaii 2012, established a joint legislative task force to explore the possibility of implementing a medicaid buy-in program for individuals with disabilities who either are not working or are currently working and would like to earn more income, based upon Hawaii’s current medicaid income and asset limits, subject to approval of the federal Centers for Medicare and Medicaid Services. Medicaid buy-in task force meetings have been convened by the legislature on a regular basis since 2012, and several bills have been introduced to implement a medicaid buy-in program. The medicaid buy-in task force has supported the medicaid buy-in program as a means to enable workers with disabilities to be employed while protecting their medical benefits and supports.

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

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

The legislature concludes 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. The purpose

of this Act is to require the department of human services to implement an earned income disregard program as an intermediate step to implementing a full medicaid buy-in program.

SECTION 3. (a) The department of human services shall 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 years, or a method of similar intent, when determining eligibility for medicaid.

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

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

(d) The department shall 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. The report shall include the department's findings, recommendations, and any proposed legislation, and the report shall identify resources needed to implement a full medicaid buy-in program.

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

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

(Approved June 26, 2019.)