

Employed Individuals with Disabilities Program
Testimony on SB 867
Equal Love for Employees with Disabilities Act
Position: FAVORABLE

March 8, 2022

Dear Chairwoman Kelley and Esteemed Senate Finance Committee Members:

My name is Josh Basile and I am submitting written testimony in support of SB 867 Equal Loving for Employees with Disabilities Act.

I became a power wheelchair user paralyzed below my shoulders as a teenager when a wave picked me up and slammed me headfirst against the ocean floor breaking my neck. I spent the first four weeks at the University of Maryland Baltimore Shock Trauma critical unit, where I could not speak because of a ventilator helping me to breathe. When I regained my voice, I decided that every word from that moment on would be made with purpose. That day I became an advocate for life and since then I have never stopped wheeling after my dreams of pursuing an education, becoming employed, falling in love, and starting a family.

After eight years of receiving vocational assistance and supports from Maryland's Division of Rehabilitation Services, I made it onto their website as a Spotlight Success Story. During this time, I returned to school, first at a community college, then graduated cum laude from the University of Maryland College Park, and ultimately graduated magna cum laude from law school. Soon after graduating, I passed the bar and successfully gained employment in 2013.

At this time, I enrolled in the Employed Individuals with Disabilities program known as EID. After diving deeper into the EID program rules, it was upsetting to learn that my future would be greatly limited and impacted by strict EID thresholds on earnings, saving responsibly, and equal loving for those wishing to pursue marriage. I learned that if I had an income at or below 300% of the federal poverty level, saved more than \$10,000 for a rainy day, or if I were to get married to a spouse with a job, I would lose all of my Medicaid and caregiving supports. I learned that EID enrollees that fall in love are told to get happily divorced or remain as cohabitated partners for life in order to maintain EID and Medicaid eligibility. I also learned that I would be forced to retire at age 65 because of eligibility rules.

To overcome these barriers, I chose to proactively advocate for my future and other Marylanders with disabilities wishing to work. I first turned to Governor Hogan and asked for his support to change the current policy and limits through administrative rule changes. He was receptive and for the last four years, I've been working closely with his administration and other stakeholder groups to make much-needed changes. Over 15 meetings took place with high-level administration officials having a seat at the table.

In September 2021, the State agreed to remove all income and asset limits but would not remove spousal income from premium determinations or the age 65 rule. These changes were contingent on securing appropriations. In January 2022, the administration formally requested appropriations within the proposed budget with at least \$4.6 million being added to the EID program in fiscal 2023.

One week prior to the appropriations being requested, the Governor of New Jersey signed into law policies that would remove all income limits, remove all assets limits, remove spousal inclusion, and remove the age 65 rule. In order to prevent the Maryland rules from changing from administration to administration, Senator Lee of District 16 determined that it would be important to codify the rule changes to mirror the New Jersey law which puts forward good public policy going beyond what the administration was willing to agree to.

The Maryland Department of Health believes that their recommended changes removing income limits and asset limits would likely increase the EID program by an additional 1200 enrollees. It is important to remember that the State projected enrollment when the EID program first rolled out to increase to 2000 enrollees within the first year. Today, over 15 years later there are only around 850 EID enrollees. This clearly illustrates that the restrictive EID rules have limited EID enrollment over the years. Improving the rules is not going to immediately result in thousands of new enrollees. Finding a job is not easy and finding a job with a disability is even harder.

Please see the attached document found on page 3 and page 4 created by the Willing to Work coalition, which I am a founding member of. This analysis dives deeper into program enrollment and cost estimates and projections based on Washington State and available Maryland data points.

For myself and many other Marylanders with disabilities that rely on the EID program to live healthy, meaningful, and fulfilling lives, both SB 867 and the New Jersey law turn the far-off dream of marriage and career advancement without limits into a reality. I remain dreaming of the day when I marry the love of my life. Even though EID has put a hard pause on my marriage plans with my fiancée, Katie, it did not stop us from starting a family together out of marriage. Twelve days ago, I became a daddy to a healthy 6-pound 12-ounce baby boy. I can't wait to wheel down the aisle with Calder in my lap, with my beautiful stepdaughter as the flower bearer, and to exchange vows and say I do.

In addition, SB 867 includes a provision that allows workers with disabilities to save their work earnings while enrolled in the EID program and not have those savings count against asset limits for other Medicaid eligibility groups in the future. If an EID enrollee were to lose their job, retire, or be unable to work for a prolonged period of time because of an illness or health conditions, thereby causing them to lose EID eligibility, then they could enroll in a different Medicaid eligibility group without having to spend the money they saved while they were enrolled in EID. This would allow the individual to maintain Medicaid eligibility and existing caregiving supports and not be penalized for saving responsibly.

With your support and Finance Committee approval of SB 867, I and many others will be one step and wheel rotation closer to making the way down the aisle to marriage and making dreams come true. I'm looking forward to a future where I can work my wheels off in a career of my choice, get married, and where I can continue to be a proud tax-paying citizen of this great state. Thank you for your time and consideration!

Sincerely,
-Josh Basile
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Program Enrollment and Cost Estimates Resulting from Changes to the Employed Individuals with Disabilities (EID) Program that Senate Bill 867 Would Establish

Medicaid income, assets, and age limits are barriers to successful employment for people with disabilities who need services only offered by Medicaid. SB 867 is making these changes to break down those barriers and move in the same direction as other states seeking to do the same. Individuals eligible for EID would otherwise be eligible for more traditional Medicaid but for their earnings from employment. As we return to "normal" there will be more job and career opportunities for people with and without disabilities. People with disabilities want and deserve the same opportunities to live, love, and work in their communities. Existing EID rules that create added restrictions for EID recipients who wish to marry are discriminatory and create a healthcare access inequity for people with disabilities. With this healthcare inequity, EID enrollees wishing to be married are forced to be either cohabitate partners for life or divorce to achieve healthcare access equity. Medicaid doesn't need to be part of the problem - but it could be a big part of the solution.

The fiscal note for Senate Bill 867, using the Maryland Department of Health's estimates, predicts the bill would increase EID enrollment by 1,200. The note also indicates an annual service cost of \$5,381 per enrollee, offset by estimated annual premium collections of \$1,548 per enrollee, yielding net Medicaid expenditures of \$3,833 per enrollee. The total increase in Medicaid expenditures is thus estimated to be \$4.6 million. Half of this cost would be recouped through federal funds, so \$2.3 million in state general funds would be needed.

The Willing to Work Coalition (WWC) has evaluated the assumptions in the fiscal note and wishes to propose an alternative estimate.

WWC estimated increased costs by considering enrollment growth in Washington State's Healthcare for Workers with Disabilities Program – a Medicaid Buy-In program with enrollment comparable to Maryland's EID Program – after Washington eliminated the income limit and upper age limit (previously age 64) for its program effective January 1, 2020. (Washington does not have a resource limit.) At that point, program enrollment was 1,500. To prepare for these changes, Washington prepared a fiscal note which created a 5-year forecast of an annual 10% enrollment increase resulting from both no income limit and the addition of workers 65 and older.¹

According to Washington Medicaid, as of July 2021, enrollment had reached 1700, an increase of 200 enrollees (13.3%) in 18 months. WWC assumed that growth in Maryland's EID Program, based on the elimination of the income limit and the upper age limit, would be similar. SB 867 would also introduce three changes that Washington did not inaugurate in 2020: (1) reducing the lower age limit from 18 to 16, (2) eliminating consideration of spousal income in premium calculations, and (3) eliminated the resource limit (Washington's program

¹ Washington fiscal note enrollment increases: FY20=69, FY21=137, FY22=137, FY23=137, FY24=68

had no resource limit even before 2020). To adjust for these factors, WWC estimated that EID enrollment growth resulting from SB 867 would be double the rate in 12 months that Washington experienced in 18 months. In short, EID enrollment would grow by 26.6% in the first 12 months after enactment of SB 867.

If Maryland's enrollment – which is approximately 850 at present - grew by 26.6%, it would reach approximately 1,076 (850×1.266), an increase of 226 enrollees.

Using the Department's estimate of \$3,833 net Medicaid expenditures per capita for EID members, if enrollment grew by 226, the additional costs in the first year due to enrollment growth would be estimated at \$866,258 ($226 \times \$3,833$). Since half of the expenditures would be funded by federal dollars, the expenditure of state general revenue would be \$433,129. (NOTE: Actual cost increases during the first year would be less than the full annualized cost for 226 new members, as new members would be added throughout the year, and not all at the start of the year.)

However, for several reasons, actual cost increases due to increased EID enrollment would most likely be substantially less than this estimate, even if enrollment grew by the predicted amount. First, a substantial percentage of new enrollees would likely be transferring from other Medicaid eligibility groups. Because they had been enrolled in Medicaid immediately before enrolling in EID, the addition of these enrollees would likely be cost neutral, and would not increase Medicaid expenditures. Second, workers enrolled in EID would pay taxes on their earnings, thereby increasing state general funds through tax revenues, helping to offset Medicaid expenditures. Third, new enrollees would pay monthly premiums for EID, which would further offset expenditures. Fourth, some workers enrolled in EID would secure employer-sponsored health insurance, which would cover some expenditures that would otherwise be fully incurred by Medicaid. And fifth, research shows that workers with disabilities have lower medical expenses than nonworkers with disabilities. EID enrollees consume less health care than nonworking Medicaid recipients with disabilities, thus reducing Medicaid expenditures.

The Maryland Department of Health has estimated that enrollment will increase by 1,200 during the first year after the program changes have been implemented. WWC believes this estimate is exaggerated and not based on sound Medicaid data. Since its implementation in 2006, the EID Program's enrollment has never reached 900. Far more individuals are likely eligible for EID based on the Program's current eligibility criteria than the number of individuals who will become eligible as a result of the changes proposed by SB 867. In other words, far fewer potentially-eligible individuals will be added by the rule changes than the number of individuals who have been eligible for the last 16 years. If EID enrollment has never reached 900 based on the current, relatively large pool of potentially-eligible Maryland workers with disabilities, it is extraordinarily unlikely that enrollment would grow by over 140%, as the Department estimates, with the addition of a much smaller pool of potentially-eligible individuals. The enrollment increase that WWC estimates, based on Medicaid data and Washington's Healthcare for Workers with Disabilities Program experience, is a far more realistic predictor of the likely increase in enrollment resulting from SB 867.