

Analysis

Item 9: Department of Human Services

COVID-19 Response Activities

Analyst: Laurie Byerly

Request: Increase the Federal Funds expenditure limitation by \$18,600,000; increase the Other Funds expenditure limitation by \$14,100,000; and transfer General Fund between programs to cover costs associated with helping agency clients and providers deal with impacts of the COVID-19 pandemic.

Analysis: Over the last nine months the Department of Human Services (DHS) has taken a series of actions to help mitigate impacts of the COVID-19 pandemic. The agency's current request seeks budget adjustments to continue several of these initiatives over the next three months, primarily by tapping General Fund projected to be available due to a temporary increase in federal Medicaid matching funds. In March 2020, a 6.2% increase in the Federal Medical Assistance Percentage (FMAP) was authorized as part of the Families First Coronavirus Response Act. The FMAP is primarily used for Medicaid services provided under the Aging and People with Disabilities (APD) and Intellectual and Developmental Disabilities (IDD) programs, but also drives some federal match for Child Welfare.

The higher FMAP rate is available from January 1, 2020, through the quarter in which the public health emergency period ends; at present that end date is January 22, 2021. This means approximately \$50.1 million in additional federal funding is expected to be received by DHS this quarter, which can free up General Fund to help address budget issues; funding for calendar year 2020 was built into the state budget previously. The agency's request utilizes \$18.6 million of this General Fund as follows:

- In APD, \$2.3 million General Fund pays for Emergency Health Care Center beds dedicated to individuals and APD clients with COVID-19 that need to be quarantined or moved from nursing home settings. This amount reflects 25% of the total cost, as the Federal Emergency Management Agency (FEMA) has agreed to reimburse the remainder through the end of the federally declared emergency. The request also includes \$7.5 million General Fund to cover COVID-19 testing costs; regular testing is mandatory for all staff in licensed nursing, assisted living, and residential care facilities. Staff must be tested at least once a month, with more frequent tests required based on a county's COVID-19 test positivity rate.
- A total of \$8.6 million General Fund supports various Child Welfare program needs: quarantine beds (\$300,000), emergency or alternative childcare for foster families (\$400,000), distance learning supports for children in residential treatment (\$7.5 million), and stability payments for providers (\$400,000).
- The rapid shift to remote work early in the pandemic required DHS to purchase hundreds of laptops and other equipment to support employees working from home; the agency's spending plan includes \$200,000 General Fund to cover these unbudgeted expenditures.

During 2020, many of the DHS actions or needs identified above were eligible and paid for, at least in part, by federal Coronavirus Relief Funds (CRF). While recent federal action permits CRF to now be spent in 2021, those funds are limited and will probably not be available to help cover these

expenditures. DHS is still seeking FEMA assistance for certain costs, which could relieve some pressure on state dollars if approved.

In addition to the General Fund components, the agency's request also includes \$14,100,000 Other Funds expenditure limitation to help continue Employment Related Day Care (ERDC) policies enacted to support providers and families during the pandemic. While the primary cost driver is from waiving all ERDC co-pays, the net pricing also accounts for changes in caseload and cost per case.

The agency's spending plan is based on projected needs through March 31, 2021. It is very likely that DHS will need or want to continue all or a portion of these pandemic-related efforts after that date; a subsequent plan and/or funding request can be reviewed and acted on during the 2021 legislative session. While additional General Fund could be needed to rebalance the agency's budget this spring to address pandemic or other issues, the \$31.5 million General Fund balance (after spending \$18.5 million) tied to the first quarter 2021 enhanced FMAP assumption is also available to help cover budget needs.

With that \$31.5 million "ending balance" in mind, the recommendation from the Legislative Fiscal Office includes three changes to the executive branch proposal:

- 1) Capture the \$50.1 million in expected additional FMAP in the first quarter 2021 in its entirety and increase the Federal Funds expenditure limitation by \$50,100,000;
- 2) Designate \$10.4 million of the \$31.5 million General Fund to support temporary (through June 30, 2021) 5% rate increases for various providers: \$7.0 million for APD nursing facilities, residential care, assisted living, and in-home agency providers; and, \$3.4 million for IDD group home, day support, and employment services providers.
- 3) Direct \$1.0 million General Fund to the Runaway and Homeless Youth program for distribution to providers facing service delivery challenges due to COVID-19. This one-time action is consistent with other short-term agency program changes made to help providers via supplemental payments during the pandemic and is not intended to guarantee ongoing permanent funding.

With these changes, a balance of \$20.1 million General Fund is preserved for future DHS budget rebalance needs.

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends that the Emergency Board increase the Department of Human Services Federal Funds expenditure limitation by \$50,100,000; increase the Other Funds expenditure limitation by \$14,100,000; and transfer General Fund between programs to cover costs associated with helping agency clients and providers deal with impacts of the COVID-19 pandemic.

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Department of Human Services
Streepey/Webb

Request: Increase Federal Funds expenditure limitation by \$18.6 million for additional federal funding under the enhanced Federal Medicaid Assistance Percentage rate currently in effect during the Public Health Emergency, increase Other Funds expenditure limitation by \$14.1 million to extend the zero copay policy for families in the Employment Related Daycare Program (ERDC) through March 2021, and transfer \$18.6 million General Fund from the APD/IDD appropriation to the Central Services appropriation.

Recommendation: Approve the request with the following modifications: Increase Federal Funds expenditures limitation by \$18.6 million for additional federal funding under the enhanced Federal Medicaid Assistance Percentage rate currently in effect during the Public Health Emergency, increase Other Funds expenditure limitation by \$14.1 million to extend the zero copay policy for families in the Employment Related Daycare Program (ERDC) through March 2021, and transfer \$6.5 million General Fund from the APD/IDD appropriation to the Child Welfare appropriation and transfer \$0.2 million from the APD/IDD appropriation to the Central Services appropriation.

Discussion:

Continuation of the Supplemental Federal Medicaid Assistance Percentage (FMAP) Rate for the First Three Months of 2021 (\$18.6 million Federal Funds Expenditure Limitation)

Due to the COVID-19 pandemic and the declaration of a Public Health Emergency (PHE), the Department of Human Services (DHS) will continue to receive an enhanced FMAP rate of 6.2 percent, totaling an estimated \$50.1 million in additional Federal Funds for the time-period of January 1 to March 31, 2021. DHS is requesting a portion of this federal limitation increase in this letter and a portion of it in the Department's letter related to wildfire costs. The total federal limitation increase between the two letters is \$50.1 million, which is the anticipated additional federal Medicaid expenditures for the first quarter of calendar year 2021. Legislative actions taken in 2020 have already balanced the Department's enhanced FMAP funds and equivalent General Fund savings through December 2020. The Aging and People with Disabilities program (APD) and Intellectual and Developmental Disabilities program (I/DD) are the primary drivers behind the additional federal revenues and expenditures, as well as the corresponding General Fund savings. However, Self-Sufficiency and Child Welfare programs also receive additional Federal Funds and related General Fund savings, due to the higher FMAP rate under the PHE.

The Department intends to use the General Fund savings created by the increased federal payments, for the following purposes to offset the state share of any unreimbursed federal costs related to the COVID. These expenditures were previously covered by Coronavirus Relief Fund resources and the need for their continuation has been deemed essential for the state's response to the pandemic. The costs below are the estimates to continue these services from January 1 – through March 31, 2021. Any funding needs for the continuation of these services beyond the end of March will need to be addressed in the 2021 Legislative Session.

- Serial COVID testing in long-term care settings (\$7.5 million);
- Educational supports for children in residential treatment (\$7.5 million);

- COVID long-term care bed capacity (\$2.3 million);
- Emergency childcare for essential workers (\$0.4 million);
- All System of Care sustainability payments (\$0.4 million);
- Temporary housing for children in foster care who are quarantined (\$0.3 million); and
- COVID telework capabilities (\$0.2 million).

The Department has requested to transfer \$18.6 million in estimated General Fund savings as a result of the enhanced FMAP from APD/IDD to Central Services, where the expenditures will be tracked separately. However, the majority of costs proposed to be covered with these resources fall within APD and Child Welfare and can be adequately tracked within the divisions in which the expenses will be paid. Additionally, Child Welfare will have some General Fund savings that can cover costs so the transfer will be minimized. CFO recommends the \$18.6 million in General Fund costs be funded with savings and the transfers minimized, as described below.

CFO recommends the APD General Fund needs for serial testing and COVID-beds be covered with General Fund FMAP savings in APD and I/DD (\$9.8 million), therefore there is no need for a transfer of funding on those costs. Child Welfare General Fund costs can be funded with a transfer of \$6.5 million General Fund from the APD/IDD appropriation to the Child Welfare appropriation and the remaining \$2.1 million in Child Welfare General Fund need can be covered through projected General Fund FMAP savings within Child Welfare. The remaining \$0.2 million needed for telework capabilities can be funded through a General Fund transfer from the APD and I/DD appropriation to the Central Services appropriation.

CFO recommends that all federal limitation being requested in this letter and the wildfire letter remain within the APD and I/DD appropriation as requested by the Department for simplification and if additional federal limitation is needed within Child Welfare, the Department can ask for the additional limitation at a future rebalance. Tables of the recommended transfers and uses of General Fund Savings from Enhanced FMAP savings are below.

Transfers:

Appropriation	Fund Type	Transfer Amount
APD/I/DD Child Welfare	General Fund	-\$6.5 million +\$6.5 million
APD/I/DD Central	General Fund	-\$0.2 million +\$0.2 million

Use of General Fund Savings from Enhanced FMAP

<u>APD</u> Serial Testing COVID Beds Transfers out	<u>General Fund</u> \$7.5 million \$2.3 million -\$6.7 million	<u>APD Total</u> \$9.8 million
<u>Child Welfare</u> Educational Support Transfers In (various uses)	<u>General Fund</u> \$2.1 million \$6.5 million	<u>Child Welfare Total</u> \$8.6 million
<u>Central Services</u> Transfer In (teleworking)	<u>General Fund</u> \$0.2 million	<u>Central Services Total</u> \$0.2 million
	Total	\$18.6 million

The amount of FMAP savings that will be used for wildfire costs is described in a separate joint letter from the Department of Human Services and the Housing and Community Services Department. Federal Emergency Management Agency (FEMA) reimbursements for eligible wildfire costs are expected to be 75 percent of the total costs; however, the timing and exact amount of FEMA reimbursements is not known at this time. It is expected that significant costs for assisting wildfire victims with response and recovery will continue to be incurred beyond March 31, 2021.

Lastly, there may be an extension of the public health emergency and the enhanced FMAP rate might be extended. Any potential additional enhanced FMAP savings beyond March 31, 2021 has not been included in the estimates presented above.

Extend Elimination of ERDC Co-pays (\$14.1 million Other Funds Expenditure Limitation)

The Department requests an increase of Other Funds expenditure limitation of \$14.1 million. Effective March 16, 2020, ERDC co-pays were suspended due to the COVID-19 pandemic as part of the effort to preserve childcare provider capacity and assist families facing financial challenges. Funding for the policy change is from the additional federal Child Care and Development Fund (CCDF) approved under the CARES Act. The Early Learning Division will transfer funds to the Department as Other Funds when needed according to caseload. Once co-pays have been suspended, they are not assessed through a family’s current certification period, which could be up to one year.

Legal Reference:

- Increase the Federal Funds expenditure limitation established by chapter 668, section 3(4), Oregon Laws 2019, for the Department of Human Services, Aging and People with Disabilities and Intellectual/Development disabilities programs, by \$18,600,000 for the 2019-21 biennium.
- Transfer of \$6.7 million General Fund appropriation made by chapter 668, section 1 Oregon Laws 2019, for the 2019-21 biennium as follows:

<u>Subsection</u>	<u>Amount</u>
(1) Central Services and state assessments and enterprise-wide costs	+\$200,000
(3) Child Welfare	+\$6,500,000
(4) Aging and people with disabilities and Intellectual/developmental disabilities program	-\$6,700,000

- Increase the Other Funds expenditure limitation established by chapter 668, section 2(2), Oregon Laws 2019, for the Department of Human Services, Self-Sufficiency and Vocational Rehabilitation Services, by \$14,100,000 for the 2019-21 biennium.



Oregon

Kate Brown, Governor

Department of Human Services

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January 5, 2021

The Honorable Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048



Re: Request to use current funding to continue COVID-19-related activities Jan. 1, 2021 through March 31, 2021 and increase other and federal funds.

Dear Co-Chairpersons:

Nature of the Request:

Due to the COVID-19 pandemic, ODHS incurred many costs outside normal costs. Many were covered through December 31, 2020, with Coronavirus Relief Funding (CRF). However, the need for some of these services will continue through the response to the pandemic. This request is for ODHS to be allowed to use \$18.6 million General Fund savings due to the additional 6.2% enhancement to the Federal Medical Assistance Percentages (FMAP) rate during the pandemic anticipated from Jan. 1-March 31, 2021. To best isolate General Fund freed up due to enhanced FMAP and move it to the Appropriation where expenditures will occur, ODHS is requesting to move the \$18.6 million in General Fund from the Aging and People with Disabilities/Intellectual and Developmental Disabilities (APD/IDD) Appropriation to the Central Office Appropriation.

ODHS requests \$14.1 million in Other Funds limitation and permission to continue the Employment-Related Day Care (ERDC) no co-pay policy through March 31, 2021.

ODHS requests \$18.6 in Federal Funds limitation in the APD/IDD appropriation due to anticipated continuation of the enhanced FMAP of 6.2% through March 31, 2021. This will allow DHS to spend the enhanced Federal Funds in APD/IDD.

Agency Action:

ODHS has taken the following actions that are requested to continue through March 2021.

"Assisting People to Become Independent, Healthy and Safe"

- Due to the significant COVID-19 challenges in long-term care settings, ODHS – through its Aging and People with Disabilities (APD) program – has contracted for Emergency Health Care Center (EHCC) beds dedicated to individuals with COVID-19 who may need to be quarantined or otherwise removed from their current setting for the safety of others. ODHS currently has 246 EHCC beds available. These beds are made available to COVID-19 positive individuals regardless of payer sources. ODHS is requesting approval to create, as needed, the capacity to serve clients in a specialized way to help stop the spread of the virus. ODHS has received approval from FEMA for 75% reimbursement through the end of the declared emergency. Prior to Jan 1, 2021 CRF funding was used as match for the states' 25% portion. ODHS anticipates this will continue but must file monthly extensions with the federal government.
- Similar to the APD COVID-19 beds above, Child Welfare also set up quarantine-related beds. ODHS has an outstanding request for FEMA funding for these beds but has not yet received approval. ODHS CW has 27 available beds currently for this purpose. ODHS would like to continue to have these beds available through the end of March 2021.
- ODHS is providing emergency childcare/alternative care to foster families. The emergency childcare/alternative care is a more flexible childcare solution when a foster family has additional supervision needs. ODHS provides reimbursement for additional supervision in the home of the foster family to assist with education needs or to assist with quarantine protocols.
- ODHS is currently providing educational supports in residential treatment settings for children. This program provides funding for ODHS contracted programs to support youth in distance learning (either residential or proctor), up to two hours per distance learning school day for each child. This funding is for the costs associated with the specific educational time, support and resources dedicated to that child above and beyond normal academic support expectations.
- ODHS is currently providing System of Care stability payments. These are payments for parent training or parent mentoring intended to stabilize loss of income due to the pandemic. Contracted providers request the stabilization

payment if their monthly invoice is less than the monthly contracted amount. This ensures the contracted providers can maintain salaries and other business operation costs. Due to the nature of these stability payments, ODHS would request continuing these services through March 2021.

- In the first weeks of the pandemic, ODHS quickly transitioned most staff to part or full-time remote work. This required modifying our computer replacement plan and purchasing hundreds of additional laptops and other equipment to facilitate remote work. ODHS is claiming costs directly related to the pandemic to facilitate remote work. ODHS is not claiming other normal computer replacement purchases that were budgeted before the pandemic emergency was declared.

In addition to the issues above, in April 2020, the Emergency Board appropriated \$3 million to the ODHS to reimburse long-term care facilities for COVID-19 testing administered to facility staff. ODHS allocated \$500,000 of this amount to the Benefits Trust serving Home Care Workers and Personal Support Workers. The remaining \$2.5 million was spent to reimburse long-term care facilities for staff testing costs.

ODHS adopted a new administrative rule at Chapter 411, Division 60. The rule requires long-term care facilities to implement serial testing of their staff on a monthly, if not more frequent, basis. Based upon reimbursement data, the average cost per test is approximately \$114. It is estimated that approximately 22,000 tests will be administered per month, resulting in a monthly reimbursement request of the remaining \$2.5 million.

ODHS was provided authority for \$5.0 million in CRF for this purpose from October 1 – December 31, 2020.

As part of the \$18.6 million, ODHS proposes to use FMAP savings described above to pay for estimated testing costs of \$7.5 million from January to March 2021.

The table below sets out the use of \$18.6 million of FMAP savings and the need for \$14.1 million Other Funds limitation for the ERDC program to extend the no co-pay policy through March. The \$14.1 million is Child Care Development Funds that are transferred from the Early Learning Division to ODHS as Other Funds.

Overveiw of ODHS estimated costs to continue services from Jan	TF	GF	FEMA***	CCDF
ODHS COVID LTC Bed Capacity (97+150) (18.0) - FEMA 75%*	9.3	2.3	7.0	
Quarantining - Temporary Housing for Foster Children (29.1-.3) -	0.3	0.3	?	
Emergency Child Care for Essential Workers (55.0)	0.4	0.4		
Education Supports in Residential Treatment (82.0)	7.5	7.5		
All System of Care Stability Payments (19.0)	0.4	0.4		
COVID-19 Telework capabilities (5.4)	0.2	0.2		
Employment Related Day Care (ERDC)	14.1			14.1
COVID testing	7.5	7.5		
Total	39.7	18.6	7.0	14.1
* FEMA Approved				
** FEMA applied for				
***FEMA is not anticipated to be timely so GF will be needed until FEMA is received - ODHS is not asking for OF at this time as it is uncertain when FEMA reimbursement will occur				

For context, it is estimated that ODHS will receive \$50.1 million in enhanced FMAP from January-March 2021. Of that amount, this letter expends \$18.6 million, which leaves \$31.5 million in anticipated savings. However, please see the “fire-related cost” letter also submitted to this Emergency Board that proposes using the remainder of this FMAP savings to cover fire-related costs.

ODHS may return to the Legislature with additional requests for General Fund or Other Funds/Federal Funds limitation as more is known about actual costs.

Action Requested:

ODHS is requesting \$18.6 million General Fund be transferred from the APD/IDD Appropriation to the Central Office Appropriation.

ODHS is requesting \$14.1 million in Other Funds limitation as described above.

ODHS is requesting \$18.6 million Federal Fund limitation in anticipation of the enhanced FMAP due to the pandemic emergency will be continued through March 31, 2021 as set out above.

Legislation Affected:

Central ch 668 1(1) increase by \$18,600,000
APD/IDD ch 668 1(4) decrease by \$18,600,000
SSP/VR ch 668 2(2) increase by \$14,100,000
APD/IDD ch 668 3(4) increase by \$18,600,000

If you have questions, please contact Eric Moore, ODHS CFO at 503-884-4701.

Sincerely,



Fariborz Pakseresht
Director
Oregon Department of Human Services

cc: Ken Rocco, Legislative Fiscal Office
Laurie Byerly, Legislative Fiscal Office
Gregory Jolivette, Legislative Fiscal Office
George Naughton, Department of Administrative Services
Ali Webb, Department of Administrative Services
Mike Streepey, Department of Administrative Services