Joint Task Force on Universal Health Care

Outstanding Design Element 5: Long-Term Services and Supports

DRAFT

SB 770 (2019) & Task Force Discussion

SB 770 calls for recommendations for long-term services and supports (LTSS) that emphasize autonomy, dignity, and self-determination. The statute also specifies that the Task Force may "explore the effects of excluding long term care services from the plan, including but not limited to the social, financial and administrative costs."

In its meeting on January 6, 2021, the Task Force discussed including LTSS within the single payer with a structure and benefits that "mirror" the status quo. Given the cost and complexity of LTSS, the Task Force did not consider universal coverage of LTSS within the single payer. Upon revisiting the issue on June 22, 2021, the Task Force acknowledged the complexity of LTSS and determined that additional study would be needed before changing the existing administrative structure. In each discussion, the Task Force has acknowledged the challenges, inequities, and also the strengths of the existing system.

LTSS does not fit neatly into single payer design.[1] With Oregon's unique approach to LTSS, the Task Force might consider whether the single payer should administer LTSS benefits initially or whether the Board should further study any complexities that would emerge in changing the existing administrative structure.

LTSS in Oregon

The Oregon Legislature created its nationally recognized long-term care system, beginning in 1981, when it built a network of facilities and services[2] with the goal of advancing the individual's right to independence, dignity, privacy, and choice.[3]

Oregon's innovation was to get residents into the least restrictive setting. Oregon Project Independence provides support with activities of daily living to allow Oregonians to remain in their homes. For residents who need more than home-based care, the Department of Human Services (DHS) licenses assisted living, residential care, memory care, adult foster care, and skilled nursing.[4]

Long term care remained under DHS after the Legislature created the Oregon Health Authority (OHA). Anticipating the state's aging demographic, the Legislature convened a task force in 2013 to study future needs.[5] In 2017, to protect the health and safety of residents, the Legislature established a comprehensive system for DHS to license and monitor facilities.[6]

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[1] *See generally*, Congressional Budget Office, Key Design Components and Considerations for Establishing a Single-Payer Health Care System (2019) at 10.

[2] OR REV STAT §§ 442.015, 443.400 (2019) (defining long term care and residential care).

[3] *See generally* OREGON SENIOR FORUMS, A History of Oregon's Unique Long Term Care System (2013).

[4] OREGON DEPARTMENT OF HUMAN SERVICES, Comparison of Long-term Care Settings in Oregon (2019).

[5] SB 21, 2013 REGULAR SESSION (Oregon 2013) (forming task force to plan for long term care system).

[6] OR REV STAT § 441 (2019).

Paying for LTSS

In the United States, the majority of LTSS is paid through Medicaid and Medicare, with a small percentage paid through private insurance and the balance out of pocket.[7] People who are not eligible for Medicaid must "spend down" their assets before becoming eligible. In this system, the burden of paying for LTSS is shared between Medicaid, Medicare, and the assets of people who are yet eligible for coverage upon entering care.

In Oregon, LTSS comprises 32-33% of all Medicaid spending.[8] Oregon allocates the highest percentage of Medicaid LTSS dollars among states to home-and community-based services (HCBS), spending 83.7% on HCBS against a national average of 56%.[9] Oregon is among states with a Program for All-inclusive Care for the Elderly (PACE), using a 1915(k) State Plan Amendment ("SPA") to pay for most LTSS services.[10] This waiver adds a higher federal match rate and expands coverage to individuals with income above standard eligibility thresholds. The waiver also adds LTSS for certain populations, including people with mental illness, who would not be eligible under standard thresholds.

LTC Concepts in Single Payer Design

Each state that has explored single payer design has struggled with the question of how to integrate LTSS. To date, **no state** has settled on a single payer model that fully includes LTSS, with only Washington recommending that Medicaid-eligible populations be included within its plan initially (See Table 1).

New York: An Assessment of the New York Health Act (Liu, White, et al, 2018)	**Vermont**: Act 128 Health System Reform Design (Hsiao, Gruber et al, 2011)	**Washington**: Report to the Legislature (Universal Health Care Work Group, 2021)
Excludes LTSS initially, but board is directed to submit a plan to include LTSS fully within two years. Projections indicate that full inclusion of LTSS would increase single payer costs by 39 to 42 percent overall.	Explores options with and without LTSS: ***"****International experience suggests that successful social models of long-term care insurance are constructed as separate programs from health benefits program, for example those of Germany and Japan, as long term care provision is so fundamentally different from medical services."*	Long term care would be administered by the single payer only for those who are Medicaid eligible: *"Some Work Group members wanted to include long-term care, but several people noted a robust long-term care benefit would 'kill' any proposal due to the cost."*

Table 1. Long-Term Care and Single Payer Design.

[7] Congressional Research Service, Who Pays for Long-Term Services and Supports? (2018). Nationally, Medicaid accounts for 42 percent of LTSS expenditures, Medicare for 22 percent, and other public programs for 6 percent. Out-of-pocket accounts for 16 percent, private insurance for 8 percent, and other private sources for 7 percent.
[8] Centers for Medicare & Medicaid Services, Medicaid Long Term Services and Supports Annual Expenditures Report (2021) at p. 11. In 2018, Oregon spent $2,882,307,719 of its Medicaid funds on $8,877,365,993 on LTSS.
[9] Id. at 14.
[10] Oregon Department of Human Services Presentation to the Task Force (December 10, 2020), slides available at https://olis.oregonlegislature.gov/liz/2019I1/Downloads/CommitteeMeetingDocument/227200.

No state has recommended universal coverage of LTSS as a feature of its single payer design. Only Washington's Universal Health Work Group recommended moving administration of LTSS for Medicaid-eligible populations into its single payer system. At the same time, the Washington Legislature created a state-based insurance system to provide a defined LTSS benefit to residents, funded by payroll deductions.[11] This program is now stalled due to concerns about implementation.[12]

The proposed New York Health Act, which has been studied in a commissioned report, offers a strategy for Oregon to consider. While it would exclude LTSS to begin with, its board would report back on the possibility of incorporating LTSS by a date certain, allowing for a focused study of the practical considerations of bringing LTSS into an existing single payer.

Recommendations

- Oregonians who are currently eligible for coverage of Long-Term Services and Supports (LTSS) will continue to receive benefits from Medicaid, Medicare, and private payers. The Oregon Department of Human Services (DHS) will continue to license and monitor LTSS facilities, adult foster homes, and service providers. Programs such as PACE and Project Independence will continue in their current form.
- Oregonians who are not eligible for LTSS benefits will continue to "spend down" assets before becoming eligible. Oregonians may choose to obtain private LTSS insurance, which is permissible as a form of *complimentary coverage*.
- The Board will collaborate with DHS to study the social, financial, and administrative impacts of including within the single payer the administration of LTSS for people who are eligible for Medicaid and/or Medicare, providing recommendations to the legislature within three (3) years of establishment of the Board.

In drafting the Interim Status Report in June of 2021, the Task Force determined that more consideration was needed before changing Oregon's existing LTSS system. These proposed recommendations reflect this acknowledgement while providing a specific timeline to study the implications of including LTSS in the single payer.

The recommendations echo the proposed New York Health Act by requiring the single payer to study LTSS inclusion. In Oregon, once the single payer is established, the Board will be able to identify specific considerations needed to successfully incorporate LTSS, such as the waivers and approvals from CMS. The Board will also work collaboratively with DHS to ensure that structural changes will not disrupt service delivery.

In the draft recommendation, the single payer would not administer LTSS. LTSS would continue to be administered by Medicaid, Medicare, and private payers. However, by preserving the existing LTSS structure pending further study, the single payer avoids disrupting the arrangements upon which vulnerable Oregonians rely.

The recommendations provide a measured approach to study the inclusion of LTSS within the single payer while avoiding any uncertainty in making short-term changes to the existing system.

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[11] Chapter 50B.04 RCW: LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM (wa.gov) et seq.

[12] "Inslee, Democratic leaders put brakes on WA Cares payroll tax for long-term care," The Seattle Times, December 17, 2021.