

## ANALYSIS

### Item 20: Department of Human Services Employee Incentive Payments

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**Analyst:** Gregory Jolivet

**Request:** Increase General Fund by \$14,480,000 and increase Federal Funds expenditure limitation by \$2,095,000 to fund retention incentive payments for direct care workers in nursing facilities, child and adult group homes, and the Stabilization and Crisis Unit.

**Analysis:** Direct care workers provide most of the hands-on care in nursing facilities and group home settings, including assistance with bathing, dressing, and eating. The work can be very challenging, leading to staff burnout and high turnover; yet, it is critical for providers to maintain adequate staffing levels for the safety and well-being of residents and staff. The COVID-19 pandemic placed even greater demands on direct care staff, such as new infection-prevention and control measures like screening, testing, and cohorting to contain spread of the disease; and, in so doing, has only amplified the workforce challenges in these settings. At the same time, the labor market effects of COVID-19 have led to rising wages in less demanding low-skilled jobs, even further complicating recruitment and retention.

Nursing Facility and Group Home Workers. Due to concerns about potentially severe staff shortages in nursing facilities and group homes, the agency developed a plan with Governor and Presiding Officer support to provide a one-time \$500 bonus for eligible staff working in Intellectual and Developmental Disabilities (IDD) group homes and nursing facilities. These settings have a combined workforce of 24,800 individuals. Eligible workers are those who were employed on October 8, 2020 through November 15, 2021. Providers were required to issue the bonus by November 30, 2021, and to submit invoices for reimbursement by December 31, 2021. ODHS estimated a need for up to \$12.4 million General Fund to reimburse providers; however, as of December 17, 2021, two weeks before the deadline to submit invoices, the agency had received and paid invoices totaling only \$6.9 million. Based on this, the agency anticipates the final cost will be lower than the amount requested.

Stabilization and Crisis Unit Agreement. Based on similar concerns of potential staff shortages resulting from COVID-19 and related policies, and to ensure adequate staffing for vulnerable populations, the state negotiated an agreement with AFSCME to raise the pay of Stabilization and Crisis Unit (SACU) employees who provide direct resident care. Under the agreement, effective November 1, 2021 through January 31, 2022, in addition to regular pay, SACU employees will be paid \$6 per hour for work Monday through Friday, and an additional \$14 per hour for weekend work (from 10 pm Friday to 7 am Monday). The agency is requesting \$2.1 million General Fund, and \$2.1 million Federal Funds expenditure limitation to cover the cost of the agreement. The Department of Administrative Services' Chief Financial Office (CFO) notes this request is based on an initial estimate which did not reflect the final terms of the letter of agreement. The amount will therefore need to be adjusted.

The agreements driving these costs are already in place and impacting the agency's budget. Accordingly, the Legislative Fiscal Office recommends budgetary changes be included in a budget reconciliation bill during the 2022 legislative session; however, amounts should be adjusted to reflect the actual cost of the one-time payment for nursing facility and group home workers, and the final terms of the SACU letter of agreement. It should be noted that ODHS originally requested Coronavirus Relief Fund monies

to fund this request. The CFO has since confirmed there is sufficient statewide CRF monies available to fund this request in lieu of General Fund.

**Recommendation:** The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including proposed budgetary changes, after further review and refinement, in a budget reconciliation bill during the 2022 legislative session.

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Oregon Department of Human Services  
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**Request:** Appropriate \$12,400,000 from the General Fund to provide a one-time incentive payment of \$500 per eligible worker serving clients with intellectual and developmental disabilities in child and adult group home settings and serving older adults and people with physical disabilities in nursing facilities. Appropriate \$2,080,000 from the General Fund and increase Federal Funds expenditure limitation by \$2,095,000 for a retention incentive for certain Stabilization and Crisis Unit employees.

**Recommendation:** Consider the request during the 2022 Legislative Session.

**Discussion:** In October 2021, the Oregon Department of Human Services (ODHS) worked with Executive and Legislative leadership on a plan to provide a one-time \$500 bonus for eligible staff working in Intellectual and Developmental Disabilities (I/DD) group homes and nursing facilities. The estimated combined workforce in these two settings is 24,800. To be eligible for the payment, workers in these settings must have been employed by the agency or facility on October 8, 2021 through November 15, 2021. ODHS selected this timeframe for the incentive due to concerns around staffing shortages as a result of the October 18, 2021, COVID vaccine requirement deadline. Prior to the deadline, about two-thirds of the direct support professional workforce and 68% of the staff in long-term care facilities were vaccinated. At the time, it was unclear if the requirement would result in severe staff shortages.

While the worst service disruption scenarios were avoided and both sectors (I/DD group homes and nursing facilities) avoided massive labor shortages due to the vaccine requirement, these systems remain fragile and stretched thin. The \$500 staff retention bonus is one strategy being deployed by the Department as part of a multipronged approach to maintain systems capacity.

Initially, the Department planned to use Coronavirus Relief Fund (CRF) resources to fund this initiative. In 2019-21 and 2021-23, ODHS returned unused CRF dollars, including CRF funding for programs that received Federal Emergency Management Agency funding. However, based on the structure of the Interagency Agreement between the Department of Administrative Services (DAS) and ODHS regarding CRF funds, it was determined that these resources could not be returned to ODHS for the one-time incentive payment until there was Legislative action authorizing a new use for the CRF funds.

The deadline for expending CRF funds is 12/31/2021 and providers have until 12/15/2021 to submit requests for reimbursement for the one-time \$500 incentive. Given these two timelines, it is feasible to book these expenditures to CRF. The Chief Financial Office recommends considering that CRF funds be used to fund this request. ODHS and DAS should receive the needed Other Funds and Federal Funds expenditure limitation based on updated reimbursement claims data prior to the 2022 Legislative Session.

In addition to the one-time \$500 incentive, the Department collectively bargained a Letter of Agreement (LoA) with represented Stabilization and Crisis Unit (SACU) staff. The LoA was negotiated between the DAS Labor Relations Unit (on behalf of SACU) and AFSCME. The LoA includes the following provisions:

- SACU employees, who provide direct resident care between the hours of 10:00 p.m. on Friday until 7:00 a.m. on Monday, will be paid an additional \$14.00 per hour for each hour or major portion thereof (thirty (30) minutes or more) of actual hours worked.
- SACU employees who provide direct resident care for all other hours will be paid an additional \$6.00 per hour for each hour or major portion thereof (thirty (30) minutes or more) of actual hours worked.
- These monies will be paid in addition to any regular salary, differentials, or other compensation for which the worker is eligible.
- Employees will be paid on the 15th of the following month starting November 2021.
- This LoA is not precedent setting and will be in effect from November 1, 2021 through January 31, 2022.

SACU is I/DD's largest division and includes 745 budgeted positions in 2021-23. SACU has struggled to fully staff operations and began using contracted staff to provide services. Starting on October 7, 2021, contracted staff began working at SACU homes throughout the state, with 140 contracted staff and a maximum of 110 staff at any given time. The Department indicated the LoA has allowed for contracted staff to rotate out of homes entirely, as of December 6, 2021. Whether or not the reliance on contracted staff will continue over time, remains unknown, particularly given that the LoA wage enhancements end January 31, 2022.

The Department's fiscal estimate was built upon a prior tentative agreement that had assumptions that were ultimately not finalized in the LoA, including the projected length of the agreement, which was only three months instead of four. Additionally, the estimate included a hazard pay amount not included in this agreement. The Department intends to utilize \$750,000 in one-time funds from enhanced Federal Medicaid Assistance Percentage savings to meet a portion of the projected cost of \$4.6 million total funds. The remaining funds are assumed to be split, based on the state's projected FMAP rate of 60.335%. This results in an additional General Fund need of \$1,525,311 and increased Federal Fund expenditure limitation of \$2,320,172, for a total cost of \$4,595,483. This total includes \$750,000 of American Rescue Plan funds already built into the budget.



# Oregon

Kate Brown, Governor

Department of Human Services

*Office of the Director*

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December 7, 2021

Senate Co-Chair Elizabeth Steiner Hayward  
Representative Co-Chair Dan Rayfield  
Interim Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048



Re: Replacement - APD/IDD one-time incentive payment and I/DD Letter of Agreement costs bargained for certain SACU staff

Dear Co-Chairpersons:

### **Nature of the Request:**

Issue #1: ODHS is requesting General Fund totaling \$12,400,000 to provide a one-time incentive payment of \$500 per eligible worker serving clients with I/DD in child and adult group home settings and serving older adults and people with physical disabilities in nursing facilities.

Issue #2: ODHS I/DD bargained a SACU retention incentive for certain SACU employees through a "Letter of Agreement". Funding is part of LAB through the 10% HCBS investment in I/DD.

### **ISSUE #1**

#### **Agency Action:**

Oregon Department of Human Services (ODHS) expects an imminent staffing crisis in nursing facilities and group homes serving people with intellectual and developmental disabilities (I/DD). Providing staff retention bonuses is one strategy that has been identified to potentially mitigate this crisis.

#### Background

Each of those systems has experienced long-standing staff shortages, which have been exacerbated by the COVID-19 pandemic. ODHS had significant concern that the staffing shortages as a result of the October 18, 2021 vaccine requirement deadline would stress already fragile systems. While facility residents have high vaccination rates, workers' vaccination rates were lagging. Prior to the vaccine requirement deadline:

*"Assisting People to Become Independent, Healthy and Safe"*

- About two-thirds of Direct Service Professionals (DSPs) who serve people with I/DD were vaccinated.
- Sixty-eight percent of staff in long-term care facilities were vaccinated.

### Incentive proposal

ODHS returned just over \$12,500,000 in Coronavirus Relief Fund (CRF) dollars to DAS as directed. These funds are now available for use but must be spent by December 31, 2021. ODHS has been directed and plans to make incentive payment of \$500 to each worker in nursing facilities and group homes based on the direction that CRF or GF would be made available for this purpose. To be eligible for the payment, workers in these settings must have been employed by the agency or facility on October 8, 2021 through November 15, 2021. ODHS, at this time, has not been directed one way or the other and so is requesting GF. If determined to be funded with “CRF” funds the legislation effected, set out below, will need to change.

### Estimated numbers:

- I/DD Group Homes: 12,000 eligible staff
- APD Nursing Facilities: 12,800 eligible staff

### Estimated Cost at \$500 per eligible employee:

- \$12,400,000

ODDS issued retention and recruitment grants to group home providers in September, as described in the ARPA 10% FMAP spending plan. Providers were able to use these funds in ways to improve recruitment and retention efforts. Some providers may have used this funding to provide incentive payments similar to those being described here. Providers also were able to use the funds to expand outreach for recruitment efforts and fund expenses tied to COVID-19.

### Distribution Plan

APD: APD Will adopt rules governing eligibility for provider reimbursements. The rules would require that nursing facilities issue a retention bonus to their employees no later than November 30, 2021 to be eligible for reimbursement. An attestation form will be used to reimburse nursing facilities for their retention payments, with any payments being subject to post-payment audit.

I/DD: ODDS will issue payments to group home provider agencies based on their report of the number of employed Direct Support Professionals in children and adult group homes. As a requirement for receiving the funds, provider agencies will be required to

provide an attestation based on payroll data indicating the number of workers that qualify by working in a group home and being employed by the agency from October 8, 2021 through November 15, 2021. Payments will be subject to future audit reviews.

ODHS plans to implement the \$500 one-time payment for eligible staff. ODHS will begin communicating with providers October 8, 2021 and then proceed with actual payments after November 15, 2021.

## **ISSUE #2**

### **Agency Action**

Staffing at SACU has been a significant challenge during COVID 19 and has slowly gotten worse to the point few applicants apply for any position open. As did the Oregon State Hospital, ODHS I/DD agreed to a “Letter of Agreement” that set out the following to help recruit and retain qualified employees.

1. SACU employees who provide direct resident care between the hours of 2200(10:00pm) on Friday until 0700 (7:00am) on Monday will be paid an additional fourteen dollars (\$14.00) per hour for each hour or major portion thereof (thirty (30) minutes or more) of actual hours worked.
2. SACU employees who provide direct resident care for all other hours will be paid an additional six dollars (\$6.00) per hour for each hour or major portion thereof (thirty (30) minutes or more) of actual hours worked.

Partial funding for this agreement was included in LAB through the ARPA spending plan. The ARPA spending plan includes \$750k for SACU staff Covid incentives. With that funding, the total GF needed for this LOA and the hazard pay incentives negotiated at the central table equal \$2.08 million GF.

### **Action Requested:**

#### **Issue #1**

Approve the \$500 per qualified individual and:

Increase the General Fund in APD by - \$6.4 million GF.

Increase the General Fund in I/DD by - \$6.0 million GF.

#### **Issue #2**

Increase the General Funds in I/DD by \$2.08 million GF and \$2.1 million FF for the SACU incentive payments and LOA.

**Legislation Affected:**

Issue #1

Increase the General Funds in APD by \$6,400,000	ch 606 1(6)
Increase the General Funds in I/DD by \$6,000,000	ch 606 1(7)

Issue #2

Increase the General Fund in I/DD by \$2,080,000	ch 606 1(7)
Increase the Federal Fund in I/DD by \$2,095,000	ch 606 3(7)

If you have questions, please contact Fariborz Pakseresht at 503-945-7001.

Sincerely,



Fariborz Pakseresht  
Director

Enclosure

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