

ANALYSIS

Item 19: Department of Human Services Non-State Employee Collective Bargaining

Analyst: Gregory Jolivette

Request: Acknowledge receipt of a report on non-state employee collective bargaining and increase General Fund by \$20,000,000 and Federal Funds expenditure limitation by \$38,151,574 for the Oregon Department of Human Services to cover the estimated costs of non-state workers.

Analysis: The Oregon Department of Human Services (ODHS) is requesting funds to support the cost of collective bargaining agreements for non-state workers. This includes a workforce of more than 39,000 adult foster home providers, personal support workers, and home care workers who collectively serve an estimated 31,000 Oregonians monthly. Personal Support Workers care for clients in the Intellectual and Developmental Disabilities program. Home Care Workers serve clients in the Aging and People with Disabilities program. The table below shows key provisions of the agreements, with costs totaling \$251.5 million (\$63.8 million General Fund and \$187.6 million Federal Funds).

ODHS 2021-23 Estimated Cost of Non-State Employee Bargaining		
	GF	FF
Personal Support Workers and Home Care Workers		
\$0.90 per hour increase - Jan 1, 2022 ^a	20,648,029	40,531,178
\$1.10 per hour increase - Jan 1, 2023 ^b	8,457,185	16,601,083
One-time Hazard Pay ^c	18,211,051	90,719,145
Other (mileage, parking, paid time off)	1,634,836	2,944,617
Subtotal	48,951,101	150,796,023
Adult Foster Homes		
5.0% rate increase - Jul 1, 2021 - Mar 31, 2022	2,655,417	9,682,272
7.3% rate increase - Apr 1, 2022	10,631,727	19,762,067
One-time Hazard Pay ^d	1,567,433	7,348,567
Subtotal	14,854,577	36,792,906
Total	63,805,678	187,588,929
Footnotes:		
a. As of this date, workers will earn \$16.67 per hour for standard levels of care.		
b. As of this date, workers will earn \$17.77 per hour for standard levels of care.		
c. \$2,262 to each provider active as of 12/2021 who served consumers from 3/2020 to 4/2021		
d. Min. of \$1,000 per resident to each provider active as of 12/2021 who served consumers from 3/2020 to 4/2021		

Of the General Fund costs, \$43.8 million is supported by one-time monies already in the ODHS budget for investments in home and community-based services. Most of the Federal Funds is supported by expenditure limitation covered in Item 18 of the agenda. To fund the balance, the agency is requesting an increase of \$20 million General Fund and a Federal Funds expenditure limitation increase of \$38.2

million. The estimated 2023-25 General Fund cost for ongoing compensation changes included in this package is \$80.9 million. (This includes the backfill for one-time monies being used in the current biennium.)

The collective bargaining agreements driving these costs are already in place and impacting the agency's budget. Accordingly, the Legislative Fiscal Office recommends that the proposed budgetary changes be included in a budget reconciliation bill during the 2022 legislative session. HB 5006 (2021) established a \$20 million special purpose appropriation to the Emergency Board for non-state employee collective bargaining which should be accessed to cover the request.

Oregon Health authority

To a much lesser extent, the Oregon Health Authority (OHA) budget supports collective bargaining agreements for non-state workers in adult mental health foster homes. However, OHA is not requesting funding as part of this proposal because the agency is supporting its costs with a combination of inflationary adjustments funded in OHA's 2021-23 budget and one-time enhanced federal revenue available for home and community-based services.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means acknowledge receipt of a report; recommend including an increase of \$20,000,000 General Fund and a corresponding decrease in the special purpose appropriation made to the Emergency Board for non-state employee collective bargaining; and including an increase of \$38,154,574 in the Federal Funds expenditure limitation for the Department of Human Services in a budget reconciliation bill during the 2022 legislative session to cover estimated costs of non-state employee collective bargaining.

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Oregon Department of Human Services
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Request: Report on non-state employee bargaining provided by the Oregon Department of Human Services, allocate \$20,000,000 from the special purpose appropriation made to the Emergency Board for the Oregon Department of Human Services non-state employee collective bargaining, and increase Federal Funds expenditure limitation by \$38,151,574 for the same purpose.

Recommendation: Acknowledge receipt of the report and approve the request during the February 2022 Legislative Session.

Discussion: House Bill 5006 (2021) established a \$20 million General Fund special purpose appropriation to the Emergency Board “for allocation to state agencies for compensation changes driven by collective bargaining for workers who are not state workers.” More specifically, the Oregon Department of Human Services (ODHS) contracts for services in the home and community for individuals with intellectual or developmental disabilities, physical disabilities, and senior citizens. The Department’s budget is built to adjust for increases in the cost of care over time, but not to account for the wage adjustments for the employees and/or providers caring for clients.

The collective bargaining agreement included wage increases for home care workers and personal support workers, as well as rate increases for adult foster care providers in both Aging and People with Disabilities (APD) and Intellectual and Developmental Disabilities (I/DD). Home care workers and personal support workers are individuals employed by Medicaid funded clients to aid with activities of daily living in that person’s home. In general, APD uses the term home care worker and I/DD uses personal support worker. There are an estimated 36,845 home care workers and personal support workers in the state providing services to over 25,000 Oregonians.

The base rate for standard levels of care for this workforce (home care workers and personal support workers) is currently \$15.77 per hour. After bargained increases, these amounts will increase to \$16.67 per hour on January 1, 2022, and to \$17.77 per hour on January 1, 2023.

This bargaining agreement also included rate increases for Adult Foster Homes for seniors and people with disabilities for I/DD foster homes. The agreement included a one-time 5% rate increase on July 1, 2021, ending March 31, 2022, and a 7.3% rate increase on April 1, 2022 for these foster homes. Adult Foster Homes are single-family residences providing 24-hour staffing and assistance with activities of daily living in a community setting to individuals who struggle to care for themselves. There are approximately 2,525 Adult Foster Homes in both APD and I/DD in the state, and collectively have the capacity to serve approximately 5,235 individuals per year.

While ODHS is only requesting allocation of the \$20 million special purpose appropriation and associated Federal Funds expenditure limitation with this request, this bargaining agreement also requires additional funding included in the 10% enhanced Federal Medicaid Assistance Percentage (FMAP) list for Home and Community Based Services. As part of the American Rescue Plan Act, ODHS Home and Community Based Services will receive an additional 10% federal match from April 1, 2021 through March 31, 2022. Those additional funds are also being utilized by ODHS to meet the obligations of this bargaining agreement. The following table shows the total projected cost of the agreement using both the special purpose appropriation funds and associated Federal Funds

limitation, as well as the General Fund which is available from savings due to the enhanced 10% FMAP funds and Federal Funds expenditure limitation.

2021-23 Non-state Employee Collective Bargaining Summary	General Fund	Federal Funds	Total Funds
Special Purpose Appropriation	\$ 20,000,000	\$ 38,151,574	\$ 58,151,574
American Rescue Plan Act 10% FMAP Savings*	\$ 43,805,678	\$ 149,437,355	\$ 193,243,032
Total	\$ 63,805,678	\$ 187,588,929	\$ 251,394,606
Ongoing Spending Commitments from 2021-23 Agreement			
Total Ongoing ARPA Funding in CBA	\$ 21,371,777	\$ 41,687,371	\$ 63,059,147
Total Ongoing with SPA and ARPA	\$ 41,371,777	\$ 79,838,945	\$ 121,210,721

*General Fund under ARPA refers to Section 9817 Funds per Centers for Medicaid and Medicare Services

The use of the savings from the 10% FMAP increase includes both one-time components and ongoing commitments. The one-time additions in this bargaining agreement are referred to as hazard pay for adult foster care providers and providers with home care workers and personal support workers. Hazard pay, or pandemic recognition pay under this agreement, equates to \$2,262 to each home care worker or personal support worker who provided services to consumers from March 2020 to April 2021 and is still an active provider on 12/1/2021. A minimum of \$1,000 per resident goes to each foster care provider who provided services to consumers from March 2020 to April 2021 and is still an active provider on 12/1/2021. The agreement also includes a one-time rate increase to adult foster homes of 5% in APD and I/DD from July 1, 2021, to March 31, 2022. The combined fiscal impact of one-time hazard pay and one-time adult foster home rate increases under this agreement is \$19.8 million General Fund.

Other than the pandemic recognition payment amount and the one-time rate increase for adult foster homes, the remaining aspects of the collective bargaining agreement will result in ongoing costs for 2023-25 and the Department will not have the added one-time resources being utilized in 2021-23. The total estimated cost of this agreement in 2023-25, is \$81 million General Fund and \$159.4 million Federal Funds for a total of \$240.4 million. This includes the full cost-estimate of the special purpose appropriation for next biennium (\$20 million) and the one-time funds being utilized in 2021-23 (\$21.4 million). This represents a significant ongoing cost that will need to be considered in building the 2023-25 budget. While, the ongoing commitments of one-time money may pose budgetary challenges, the increases under this bargaining agreement represent significant progress on increasing compensation for a critical workforce many consider undervalued given roles and responsibilities and compared to other industries. Given the current state of the labor market, these compensation increases will play a critical role in attracting and retaining workers and combating service disruptions. This agreement recognizes changes in the overall labor market and when combined with other pandemic-related initiatives by ODHS, signifies a continued commitment to stabilize the service system and limit disruptions for Oregonians.

Legal References:

- Allocation of \$9,093,426 from the special purpose appropriation made to the Emergency Board by Chapter 669, Section 1b, Oregon Laws 2021, to supplement the appropriation made by Chapter 606 Oregon Laws 2021, Section 1(6) for the Oregon Department of Human Services Aging and People with Disabilities non-state employee collective bargaining.
- Allocation of \$10,906,574 from the special purpose appropriation made to the Emergency Board by Chapter 669, Section 1b, Oregon Laws 2021, to supplement the appropriation made

by Chapter 606 Oregon Laws 2021, Section 1(7) for the Oregon Department of Human Services Intellectual and Development Disabilities non-state employee collective bargaining.

- Increase the Federal Funds expenditure limitation established by Chapter 606, Section 3(6), Oregon Laws 2021, for the Oregon Department of Human Services Aging and People with Disabilities non-state employee collective bargaining, by \$16,809,247 for the 2021-23 biennium.
- Increase the Federal Funds expenditure limitation established by Chapter 606, Section 3(7), Oregon Laws 2021, for the Oregon Department of Human Services Intellectual and Developmental Disabilities non-state employee collective bargaining, by \$21,342,327 for the 2021-23 biennium.



Oregon

Kate Brown, Governor

Department of Human Services

Office of the Director
500 Summer St. NE, E-15
Salem, OR 97301
Voice: 503-945-5600
Fax: 503-581-6198
TTY: 503-945-5896

December 3, 2021



The Honorable Senator Elizabeth Steiner-Hayward, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Interim Committee on Ways and Means on Human Services
900 Court St NE
H-178 State Capitol
Salem, OR 97301-4048

Re: Bargaining Update for Non- State Employees and Request for General Fund and
Federal Fund limitation from the non-state employee bargaining special purpose
appropriation

Dear Co-Chairpersons:

Nature of the Request

The purpose of this letter is to both provide a report on non-state employee bargaining and to request funding from the Special Purpose appropriation and from the General Fund to cover the estimated cost of bargaining.

Agency Action

During the 2021 Legislative Session, a Special Purpose Appropriation (SPA) of \$20 million General Fund was created for non-state employee bargaining including Adult Foster Homes and Home Care Workers. Additional funding for bargaining was included in the "HCBS Ten Percent List" presented by the Department. This letter contains summary of the entire bargaining activities but only requests release of funding from the Special Purpose Appropriation.

SPECIAL PURPOSE APPROPRIATION FOR NON-STATE EMPLOYEES

Bargaining Agreement Summary:

In summary, ODHS utilized the Special Purpose Appropriation funding as follows:

Home Care Workers/ Personal Support Workers

- An increase of \$1.10/hour on 1/1/23 (\$17.77 per hour)
- Paid-Time Off - \$0.14/hour contribution to Trust for additional PTO benefit.

Adult Foster Homes

- 7.3% rate increase effective 4/1/22.

HCBS TEN PERCENT LIST

ODHS also utilized funding from the “HCBS Ten Percent List” to supplement the bargaining pots for these units. The funding was utilized as follows:

Home Care Workers/ Personal Support Workers

- Increase of \$0.90/hour on 1/1/22 (\$16.67 per hour)
- “Hazard Pay” of \$2,000 to each Provider who serviced consumers from March 2020 to April 2021 who is still an active provider on 12/1/2021.
- Mileage rate increased to \$0.56/mile
- Allows stacking of professional development certification and enhanced home care worker differentials.
- Creation of a new differential for Exceptional HCWs serving individuals with extreme behaviors
- Holiday pay, starting in 2023, for July 4th, Thanksgiving and Christmas.

Adult Foster Homes

- Retroactive 5% rate increase back to July 1, 2021.
- Exception hourly rate is tied to Home Care Worker hourly wage rate.

- Pandemic Recognition Pay - "Hazard Pay"
 - A minimum of \$1,000 per resident to each Provider who serviced consumers from March 2020 to April 2021 who is still an active provider on 12/1/2021.

Action Requested

ODHS requests acknowledgement of receipt of this report. In addition, ODHS requests \$20M General Fund from the Special Purpose Appropriation for Non-State Employee Bargaining as follows with corresponding Federal Funds:

Aging and People with Disabilities:	\$9,093,426
Intellectual/ Developmental Disabilities:	\$10,906,574

Legislation Affected:

ODHS APD:	Increase General Fund by \$9,093,426	ch 606 1(6)
ODHS APD:	Increase Federal Funds by \$16,809,247	ch 606 3(6)
ODHS I/DD:	Increase General Fund by \$10,906,574	ch 606 1(7)
ODHS I/DD:	Increase Federal Funds by \$21,342,327	ch 606 3(7)

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

Sincerely,



Fariborz Pakseresht
Director

cc: 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