

# D R A F T

## SUMMARY

Requires Department of Human Services to request federal approval to allow parent or legal guardian to be paid to act as personal support worker or direct support professional for child who has intellectual or developmental disability and to disregard income of parent in determining child's eligibility for developmental disability services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to developmental disability services; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

### 4 **SECTION 1. (1) As used in this section:**

5 (a) **“Attendant care services” means assistance with activities of**  
6 **daily living that enables an individual with a disability to live at home**  
7 **or in the community when, without such services, the individual**  
8 **would require care provided in a hospital, nursing facility or interme-**  
9 **diate care facility.**

10 (b) **“Developmental disability services” has the meaning given that**  
11 **term in ORS 427.101.**

12 (c) **“Direct support professional” means an individual who is quali-**  
13 **fied to provide attendant care services to an individual in the**  
14 **individual’s home or community.**

15 (d) **“Parent” includes a parent of a minor child by blood, marriage**  
16 **or adoption whose parental rights have not been terminated under**  
17 **ORS 419B.500 to 419B.524.**

18 (e) **“Personal support worker” has the meaning given that term in**

1 **ORS 410.600.**

2 (2) The Department of Human Services shall allow a child receiving  
3 developmental disability services to select the child's parent, parents  
4 or legal guardian to provide services to the child as a personal support  
5 worker or a direct support professional if the parent or legal guardian  
6 completes the training requirements, background check and any other  
7 requirements for personal support workers or direct support profes-  
8 sionals as prescribed by the department by rule.

9 (3) The department shall take all steps necessary to ensure that a  
10 parent or legal guardian who is paid as a personal support worker or  
11 direct support professional under subsection (2) of this section main-  
12 tains the ability to engage in the evaluation process and in the devel-  
13 opment of a service plan for the child to the maximum extent  
14 allowable within federal rules and guidance.

15 (4) The department may not impose requirements or limits on at-  
16 tendant care services hours provided by parents or legal guardians who  
17 are being paid as personal support workers or direct support profes-  
18 sionals under subsection (2) of this section that differ from the re-  
19 quirements and limits imposed on personal support workers or direct  
20 support professionals who are not the parents or legal guardians of the  
21 child receiving the attendant care services.

22 **SECTION 2.** (1) As used in this section, "Community First Choice  
23 option" means a state plan amendment approved by the Centers for  
24 Medicare and Medicaid Services under 42 U.S.C, 1396n(k).

25 (2) The Department of Human Services may not consider the in-  
26 come of a parent of a child with an intellectual or developmental dis-  
27 ability in determining the child's eligibility for services under Oregon's  
28 Community First Choice option.

29 **SECTION 3.** (1) No later than July 15, 2023, or the effective date of  
30 this 2023 Act, whichever is later, the Oregon Health Authority shall  
31 seek any waivers of federal requirements or federal approvals of state

1 plan amendments that are necessary to carry out sections 1 and 2 of  
2 this 2023 Act.

3 (2) The authority shall notify the Legislative Counsel immediately  
4 upon receipt of the approval or denial of approval of each request un-  
5 der subsection (1) of this section.

6 (3) For the period before federal approvals are received on requests  
7 made under subsection (1) of this section, the authority shall request  
8 from the Centers for Medicare and Medicaid Services approval to  
9 continue the flexibilities provided by the Centers for Medicare and  
10 Medicaid Services under the Section 1135 Waiver Flexibilities approved  
11 on December 9, 2020.

12 SECTION 4. (1) Section 1 of this 2023 Act becomes operative upon  
13 receipt of federal approval requested under section 3 of this 2023 Act  
14 to carry out the provisions of section 1 of this 2023 Act.

15 (2) Section 2 of this 2023 Act becomes operative upon receipt of  
16 federal approval requested under section 3 of this 2023 Act to carry out  
17 the provisions of section 2 of this 2023 Act.

18 SECTION 5. (1) Section 1 of this 2023 Act is repealed upon the ear-  
19 lier of the denial of federal approval requested under section 3 of this  
20 2023 Act to carry out the provisions of section 1 of this 2023 Act or  
21 January 2, 2025.

22 (2) Section 2 of this 2023 Act is repealed upon the earlier of the de-  
23 nial of federal approval requested under section 3 of this 2023 Act to  
24 carry out the provisions of section 2 of this 2023 Act or January 2, 2025.

25 SECTION 6. This 2023 Act being necessary for the immediate pres-  
26 ervation of the public peace, health and safety, an emergency is de-  
27 clared to exist, and this 2023 Act takes effect on its passage.

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