

SB 820 A STAFF MEASURE SUMMARY

Senate Committee On Human Services

Action Date: 03/27/23

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 5-0-0-0

Yeas: 5 - Gelser Blouin, Manning Jr, Prozanski, Robinson, Weber

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/8, 3/27

WHAT THE MEASURE DOES:

Directs the Oregon Health Authority (OHA) to offer services and supports, using funding available through the Community First Choice option under 42 U.S.C. 1396n(k), to individuals who are under 21 years of age; qualify for medical assistance; are at risk of hospitalization or an out-of-home placement, or are hospitalized or in an out-of-home placement and wish to receive services in their own homes; and meet the criteria established by rule for determining whether an individual would require the level of care furnished in an institution providing psychiatric services for individuals in the absence of community-based services and supports. Requires OHA to establish eligibility criteria for determining whether an individual would require the level of care furnished in an institution providing psychiatric services for individuals in the absence of community-based services and support. Requires OHA to establish an assessment tool to determine needed services and supports for individuals, specifies services and supports. Directs OHA to seek federal approval to disregard the income of a parent of an individual who is under 18 years of age when determining eligibility for these services and supports and provide flexibility for providing innovative services and supports. Directs the Department of Human Services and OHA develop a process to ensure that individuals have all of their needs met fully while avoiding duplication of services and supports. Directs OHA to create a unit to coordinate said services and supports, primarily focusing on prevention, recovery, and support. Requires individuals to be enrolled in a coordinated care organization to receive said services and supports. Requires that individuals be given the choice to change to services and supports paid for on a fee-for-service basis, if the individual needs services or supports that are not offered by the local coordinated care organization and be allowed to see providers outside of the coordinated care organization's provider network with ensured continuity in care. Permits individuals and the individual's parents, guardian or legal representative to: direct said services and supports, choose how to employ providers, and select providers. Directs OHA to contract with community-based entities to develop person-centered services, assist individuals and their families in identifying and recruiting preferred providers of services and support staff, provide fiscal intermediary services and support individuals and their families in directing the provision of services and supports. Directs OHA to adopt rules to ensure the safety and quality of care and allow for both self-directed models of service and agency-directed models of service. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Capacities needed in Oregon for youth services
- Capacity for highly structured and supervised environment when youth need it
- Wrap around services when youth transition back to their home
- Medicaid system and coverage for mental health needs and attendant care services

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EFFECT OF AMENDMENT:

Directs the Oregon Health Authority (OHA) to offer services and supports to individuals who are under 21 years of age, qualify for medical assistance, and meet the criteria established by rule for determining whether an individual would require the level of care furnished in an institution providing psychiatric services for individuals in the absence of community-based services and supports. Directs OHA to adopt eligibility criteria by January 1, 2025. Directs OHA to enter into contracts with community-based entities by July 1, 2025. Removes language explicitly prohibiting an individual under 18 years to select their parent as the provider of services or supports.

BACKGROUND:

The [Patient Protection and Affordable Care Act](#) authorized the addition of section 1915(k) to the [Social Security Act](#), allowing states the option of providing home and community-based attendant services and supports through their State Plans. The "[Community First Choice](#)" (CFC) option went into effect in October 2011 and is one of four options introduced or amended in the Affordable Care Act to provide long-term services and supports to individuals in their homes or communities rather than in institutional settings. The CFC is a State Plan benefit, available to states without the need for special waiver authority. States are required to use a person-centered plan of services and supports that is based on an assessment of functional need. States must provide CFC services and supports statewide and without regard to the individual's age, type or nature of disability, severity of disability, or the form of home and community-based services and supports that the individual requires to lead an independent life. Individuals served through CFC are persons of all ages who choose to receive CFC services and supports, receive Medicaid eligibility through State Plan eligibility rules, and meet institutional level-of-care criteria. Individuals must be in an [eligibility group](#) that is entitled to receive nursing facility services or have an income that does not exceed 150 percent of the federal poverty level. Level-of-care determinations are made by each state, and they determine whether individuals require a level of care such as that provided in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, institution providing psychiatric services for individuals under age 21, or institution for mental illnesses for individuals aged 65 or over. Oregon's Medicaid State Plan Amendment adding Community First Choice services was approved on June 27, 2013. By implementing this option, which Oregon refers to as "K Plan" or "K Option," the State covers a range of home and community-based services under the State Plan, rather than through [1915\(c\) waivers](#). Oregon's program covers home and community-based attendant services and supports, to assist individuals with activities of daily living, instrumental activities of daily living, and health-related tasks. Individuals who qualify for Medicaid through a 1915(c) waiver must continue to meet all waiver criteria and must receive at least one waiver service per month. Oregon requires waiver participants qualifying under the special income standard to apply excess income to the cost of waiver services, and excess income is applied to 1915(k) services, as well. Oregon uses an agency-provider model of service delivery, in which services and supports are provided by entities under a contract or provider agreement with the State. [Section 2401 of the Patient Protection and Affordable Care Act](#) requires that CFC services be delivered "in the most integrated setting appropriate to the individual's needs." Oregon specifies that CFC services may be provided in a home or in licensed, certified, or endorsed community-based settings. These community settings may include assisted living facilities; adult foster care; adult day centers; day habilitation providers; residential care facilities; residential treatment facilities; supported living providers; and several types of group homes and foster care.

Senate Bill 820 A directs the Oregon Health Authority (OHA) to offer services and supports to individuals who are under 21 years of age, qualify for medical assistance, and meet the criteria established by rule for determining whether an individual would require the level of care furnished in an institution providing psychiatric services for individuals in the absence of community-based services and supports. The measure requires OHA to seek federal approval to disregard the income of a parent of an individual who is under 18 years of age when determining eligibility for these services and supports and provide innovative services and supports to these individuals.