

# Enrolled House Bill 2683

Sponsored by Representative KROPF; Representatives ANDERSEN, DEXTER, FAHEY, GAMBA, HUDSON, MARSH, MCLAIN, NATHANSON, PHAM H, REYNOLDS, WALTERS (Presession filed.)

CHAPTER .....

AN ACT

Relating to child eligibility to participate in Employment Related Day Care subsidy program; creating new provisions; and amending ORS 329A.500.

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

**SECTION 1.** ORS 329A.500 is amended to read:

329A.500. (1) As used in this section, “family” means any individual who is responsible for the care, control and supervision of a child.

(2) The Department of Human Services and the Early Learning Council shall adopt rules for the operation of the Employment Related Day Care subsidy program administered by the department.

(3) The rules adopted under this section must support equitable access to a supply of diverse child care providers that meet the needs of families, as those needs are defined by the department by rule, including:

- (a) Cultural diversity;
- (b) Linguistic diversity;
- (c) Racial and ethnic diversity; and
- (d) Diversity of provider types.

*[(4) The rules adopted under this section must provide that:]*

*[(a) A child’s eligibility to participate in the Employment Related Day Care subsidy program must be based on:]*

*[(A) The household income of a child’s family; and]*

*[(B) Any other criteria established by the department.]*

**(4) The council shall adopt rules establishing that:**

**(a) Each of the following subparagraphs constitutes an independent basis of eligibility for a child to participate in the Employment Related Day Care subsidy program:**

**(A) The household income of a child’s family;**

**(B) The child’s family’s employment, search for employment or enrollment in an education or training program;**

**(C) The child’s or child’s family’s use of, or risk of needing to use, protective services, including, but not limited to, child welfare services, child abuse prevention services, family reunification services, foster care services or subsidized guardianship services;**

**(D) The child’s or child’s family’s use of, or risk of needing to use, homelessness services, teen parent services or domestic violence services; or**

**(E) Any other criteria established by the council.**

(b) A child must be able to receive care that:  
(A) Meets the child’s developmental, disability and neurodiversity needs; and  
(B) Enables the child’s family to complete activities that relate to family well-being, which may include the family’s work hours, education hours, commute time, study time and other activities that support family well-being.

(c) Payment to child care providers must be based on enrollment instead of attendance.

(d) A child’s family may qualify for an incentive if the family voluntarily chooses a child care provider that participates in the quality recognition and improvement system established under ORS 329A.261. A fair representation of the recipients who qualify for incentives must be families with children who are from underserved racial, ethnic or minority populations. In addition, child care providers that participate in the quality recognition and improvement system may receive financial incentives under the subsidy programs in accordance with criteria established by rule.

(5) Taking into account the availability of funds, the rules adopted under this section must establish a sliding scale for copayment, with the requirement that a copayment may not exceed seven percent of the household income of the child’s family.

(6) In developing rules under this section, the department shall consider policies for increasing the stability and continuity of a child’s access to a family’s preferred child care provider.

(7) Rules adopted by the department under this section establish minimum requirements pertaining to the Employment Related Day Care subsidy program and may not be construed to preempt, limit or otherwise diminish the applicability of any policy, standard or collective bargaining agreement that provides for an increased subsidy or a child care provider reimbursement amount under state or federal law.

(8)(a) The department shall work to meet federal recommendations for income eligibility and market access in regard to the Employment Related Day Care subsidy program administered by the department.

(b) Notwithstanding any provision of this section or any rule adopted by the department pursuant to this section, the laws and regulations applicable to any federal funds shall govern when any aspect of child care is funded by federal funds.

**SECTION 2.** ORS 329A.500, as amended by section 73, chapter 631, Oregon Laws 2021, and section 25, chapter 27, Oregon Laws 2022, is amended to read:

329A.500. (1) As used in this section, “family” means any individual who is responsible for the care, control and supervision of a child.

(2) The Early Learning Council shall adopt rules for the operation of the Employment Related Day Care subsidy program and for other subsidy programs administered by the Department of Early Learning and Care.

(3) The rules adopted under this section must support equitable access to a supply of diverse subsidized care facilities that meet the needs of families, as those needs are defined by the council by rule, including:

- (a) Cultural diversity;
- (b) Linguistic diversity;
- (c) Racial and ethnic diversity; and
- (d) Diversity of subsidized care facility types.

*[(4) The rules adopted under this section must provide that:]*

*[(a) A child’s eligibility to participate in the Employment Related Day Care subsidy program must be based on:]*

*[(A) The household income of a child’s family; and]*

*[(B) Any other criteria established by the council.]*

**(4) The council shall adopt rules establishing that:**

**(a) Each of the following subparagraphs constitutes an independent basis of eligibility for a child to participate in the Employment Related Day Care subsidy program:**

**(A) The household income of a child’s family;**

**(B) The child's family's employment, search for employment or enrollment in an education or training program;**

**(C) The child's or child's family's use of, or risk of needing to use, protective services, including, but not limited to, child welfare services, child abuse prevention services, family reunification services, foster care services or subsidized guardianship services;**

**(D) The child's or child's family's use of, or risk of needing to use, homelessness services, teen parent services or domestic violence services; or**

**(E) Any other criteria established by the council.**

(b) A child must be able to receive care that:

(A) Meets the child's developmental, disability and neurodiversity needs; and

(B) Enables the child's family to complete activities that relate to family well-being, which may include the family's work hours, education hours, commute time, study time and other activities that support family well-being.

(c) Payment to subsidized care facilities must be based on enrollment instead of attendance.

(d) A child's family may qualify for an incentive if the family voluntarily chooses a subsidized care facility that participates in the quality recognition and improvement system established under ORS 329A.261. A fair representation of the recipients who qualify for incentives must be families with children who are from underserved racial, ethnic or minority populations. In addition, subsidized care facilities that participate in the quality recognition and improvement system may receive financial incentives under the subsidy programs in accordance with criteria established by rule.

(e) A child care facility is not eligible to be a subsidized care facility and to receive a reimbursement under the subsidy program unless each subject individual described in ORS 329A.030 (10)(d) who operates, resides in or may have unsupervised contact with children at the subsidized care facility that provides or will provide subsidized care to the person's child is enrolled in the Central Background Registry under ORS 329A.030.

(f) A subsidized care facility may be eligible to receive a higher rate of reimbursement or other financial incentives for:

(A) Participating in quality improvement measures;

(B) Providing culturally or linguistically specific or appropriate care;

(C) Providing evening, overnight or weekend care;

(D) Providing care to children with a diagnosed disability;

(E) Providing infant or toddler care;

(F) Providing care to a population that has been identified as historically having an inadequate child care facility supply; or

(G) Providing any other specialized care that justifies a higher rate of reimbursement.

(5) Taking into account the availability of funds, the rules adopted under this section:

(a) Must establish a sliding scale for copayment, with the requirement that a copayment may not exceed seven percent of the household income of the child's family.

(b) Must provide that eligibility to participate in the Employment Related Day Care subsidy program:

(A) May not be based on the citizenship or legal status of a child or a child's family; and

(B) Shall, for a child who met the initial eligibility requirements prescribed under subsection (4) of this section, continue for a minimum of 12 months from the date of initial eligibility unless the child's family leaves this state or requests a termination of benefits or for any other reason identified by the council. Rules adopted under this subparagraph shall give priority to families receiving temporary assistance under the temporary assistance for needy families program described in ORS 412.006.

(c) May provide that a determination of eligibility to participate in the Employment Related Day Care subsidy program consider the availability of family to attend to the child, regardless of the family's physical presence.

(6) In developing rules under this section, the council shall consider policies for increasing the stability and continuity of a child's access to a family's preferred child care facility.

(7) Rules adopted by the council under this section establish minimum requirements pertaining to the Employment Related Day Care subsidy program and may not be construed to preempt, limit or otherwise diminish the applicability of any policy, standard or collective bargaining agreement that provides for an increased subsidy or a subsidized care facility reimbursement amount under state or federal law.

(8)(a) The council shall work to meet federal recommendations for income eligibility and market access in regard to the Employment Related Day Care subsidy program administered by the council.

(b) Notwithstanding any provision of this section or any rule adopted by the council pursuant to this section, the laws and regulations applicable to any federal funds shall govern when any aspect of child care is funded by federal funds.

**SECTION 3. (1) The Early Learning Council shall develop and implement rules providing criteria for eligibility based on ORS 329A.500 (4)(a)(C) no later than July 1, 2025.**

**(2) The council shall develop and implement rules providing criteria for eligibility based on ORS 329A.500 (4)(a)(D) no later than July 1, 2027.**

**SECTION 4. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (8), chapter \_\_\_\_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, for the Oregon Eligibility Partnership, is increased by \$313,407, for information technology changes required to carry out the provisions of this 2023 Act.**

**SECTION 5. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (9), chapter \_\_\_\_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and Medicare receipts and including federal funds for indirect cost recovery, Social Security Supplemental Security Income recoveries and the Child Care and Development Fund, but excluding lottery funds and federal funds not described in section 2, chapter \_\_\_\_\_, Oregon Laws 2023 (Enrolled House Bill 5026), collected or received by the Department of Human Services, for the Oregon Eligibility Partnership, is increased by \$1,830,240, for information technology system changes required to carry out the provisions of this 2023 Act.**

**SECTION 6. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (8), chapter \_\_\_\_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter \_\_\_\_\_, Oregon Laws 2023 (Enrolled House Bill 5026), collected or received by the Department of Human Services, for the Oregon Eligibility Partnership, is increased by \$313,406, for information technology system changes required to carry out the provisions of this 2023 Act.**

**SECTION 7. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$7,843, to support position costs related to system updates required to carry out the provisions of this 2023 Act.**

**SECTION 8. Notwithstanding any other law limiting expenditures, the amount of \$626,811 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Health Authority, for the Office of Information Services, to support position costs related to system updates required to carry of the provisions of this 2023 Act.**

**SECTION 9. Notwithstanding any other law limiting expenditures, the amount of \$7,843 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from federal funds collected or received by Oregon Health Authority to support position costs related to system updates required to carry out the provisions of this 2023 Act.**

**SECTION 10. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Early Learning and Care by section 1 (1), chapter \_\_\_\_\_,**

**Oregon Laws 2023 (Enrolled House Bill 5013), for the biennium beginning July 1, 2023, for operations, is increased by \$1,830,240, for information technology system changes required to carry out the provisions of this 2023 Act.**

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**Passed by House June 13, 2023**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate June 22, 2023**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

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Secretary of State