

Requested by Senator KNOPP

**PROPOSED AMENDMENTS TO
SENATE BILL 91**

1 On page 1 of the printed bill, delete lines 4 through 25 and delete pages
2 2 through 5 and insert:

3 **“SECTION 1. (1) As used in this section:**

4 **“(a) ‘Activities of daily living services’ includes providing assistance**
5 **with:**

6 **“(A) Basic personal hygiene, such as bathing, hair care, grooming,**
7 **shaving, nail care, foot care, dressing, skin care or oral hygiene;**

8 **“(B) Toileting, bowel and bladder care, such as getting to and from**
9 **the bathroom, on and off the toilet, commode, bed pan, urinal or other**
10 **assistive device used for toileting, changing incontinence supplies,**
11 **following a toileting schedule, managing menses, cleaning or adjusting**
12 **clothing related to toileting, emptying a catheter, drainage bag or**
13 **assistive device, ostomy care or bowel care;**

14 **“(C) Mobility, transfers and repositioning, such as assisting with**
15 **ambulation or transfers with or without assistive devices, turning an**
16 **individual or adjusting padding for physical comfort or pressure relief**
17 **or encouraging or assisting with range of motion exercises;**

18 **“(D) Eating, such as assisting with adequate fluid intake or ade-**
19 **quate nutrition, assisting with food intake, monitoring to prevent**
20 **choking or aspiration, assisting with adaptive utensils, cutting food**
21 **or placing food, dishes and utensils within reach for eating; and**

1 **“(E) Cognitive functions or emotional support for an individual with**
2 **an intellectual or developmental disability, such as helping the indi-**
3 **vidual cope with change and assisting the individual with decision-**
4 **making, reassurance, orientation and memory.**

5 **“(b) ‘Agency’ means an agency that hires, trains and supervises**
6 **direct support professionals using state funds received from the De-**
7 **partment of Human Services.**

8 **“(c) ‘Attendant care services’ means services provided directly to**
9 **an individual with a disability to assist with activities of daily living,**
10 **instrumental activities of daily living and health-related tasks.**

11 **“(d) ‘Client’ means an individual who receives attendant care ser-**
12 **vices.**

13 **“(e) ‘Client child’ means a child under 18 years of age who receives**
14 **extraordinary care from the child’s parent.**

15 **“(f) ‘Direct support professional’ means an individual who is hired,**
16 **employed, trained, paid and supervised by an agency to provide at-**
17 **tendant care services to a client of the agency.**

18 **“(g) ‘Extraordinary care’ means the level of services and support**
19 **needed by a child who has been assessed to have high or very high**
20 **needs for assistance with activities of daily living services and instru-**
21 **mental activities of daily living services.**

22 **“(h) ‘Instructional time’ means the hours, designated in a child’s**
23 **individual support plan, throughout a 12-month period during which**
24 **the child is engaged in regularly scheduled instruction, learning ac-**
25 **tivities or learning assessments as required by rules adopted by the**
26 **Department of Education.**

27 **“(i) ‘Instrumental activities of daily living services’ includes:**

28 **“(A) Light housekeeping tasks necessary to maintain an individual**
29 **in a healthy and safe environment, such as cleaning surfaces and**
30 **floors, making the bed, cleaning dishes, taking out the garbage, dust-**

1 **ing and doing the laundry;**

2 **“(B) Going grocery shopping and doing other shopping necessary to**
3 **carry out activities of daily living services and other instrumental ac-**
4 **tivities of daily living services;**

5 **“(C) Meal preparation and managing special diets;**

6 **“(D) Supporting an individual to participate in the community, such**
7 **as assisting the individual in acquiring, retaining and improving skills**
8 **needed to make use of available community resources, facilities or**
9 **businesses and improving self-awareness and self-control; and**

10 **“(E) Supporting an individual in communicating, such as assisting**
11 **the individual in acquiring, retaining and improving expressive and**
12 **receptive skills in verbal and nonverbal language, social responsive-**
13 **ness, social amenities and interpersonal skills and the functional ap-**
14 **plication of acquired reading and writing skills.**

15 **“(j) ‘Nonparent caregiver’ means a direct support professional,**
16 **personal support worker or similar provider who is paid to provide**
17 **attendant care services to clients who are not the provider’s children.**

18 **“(k) ‘Parent’ includes a:**

19 **“(A) Natural or adoptive parent of a child;**

20 **“(B) Stepparent of a child; and**

21 **“(C) Legal guardian of a child.**

22 **“(L)(A) ‘Parent provider’ means a parent who is paid to provide**
23 **attendant care services to the parent’s minor child.**

24 **“(B) ‘Parent provider’ does not include a parent who is paid to**
25 **provide attendant care services to a child who is 18 years of age or**
26 **older.**

27 **“(m)(A) ‘Personal support worker’ means an individual who is em-**
28 **ployed by a client or the client’s representative and paid to provide**
29 **attendant care services to the client.**

30 **“(B) ‘Personal support worker’ does not include a direct support**

1 professional.

2 “(2) Subject to subsection (7) of this section and section 5 of this
3 2023 Act, the Department of Human Services shall administer a pro-
4 gram to compensate parents for providing attendant care services to
5 the parents’ children who have been assessed by the department to
6 need extraordinary care. In making an assessment, the department
7 shall use an assessment tool adopted by the department and approved
8 by the Centers for Medicare and Medicaid Services to measure a
9 child’s need for assistance with activities of daily living and instru-
10 mental activities of daily living as prescribed in the child’s individual
11 support plan.

12 “(3) To be eligible for the program described in this section:

13 “(a) A parent provider must be employed by an agency and not by
14 the child or the other parent of the child unless the parent provider
15 was paid as a personal support worker for the child on or before July
16 1, 2022;

17 “(b) The parent provider may not be paid to provide attendant care
18 services to the client child by an agency that is owned by the parent,
19 the child or any family member or for which the parent or other
20 family member serves in any administrative or leadership capacity,
21 including as a member of a board of directors; and

22 “(c) The agency employing the parent provider to provide attendant
23 care services to the client child:

24 “(A) Shall work with the parent provider and the client child to
25 schedule attendant care services according to the needs of the child;

26 “(B) May not employ a parent provider as an independent contrac-
27 tor;

28 “(C) Must offer a parent provider the same wages and benefits of-
29 fered to direct support professionals who are not parent providers even
30 if the reimbursement paid by the department to the agency is lower

1 for services provided by parent providers;

2 “(D) May pay a parent provider to provide a total of no more than
3 60 hours per week of attendant care services;

4 “(E) Subject to subparagraph (D) of this paragraph, shall pay parent
5 providers overtime at the same rate and under the same circum-
6 stances as direct support professionals who are not parent providers;
7 and

8 “(F) Except as authorized by the Department of Human Services
9 by rule, may not pay providers of attendant care services, including
10 parent providers, to provide services to a minor child during instruc-
11 tional time unless the minor child is temporarily disengaged from in-
12 structional time while recovering from surgery or illness and the
13 temporary disengagement from instructional time is recommended by
14 the child’s health care provider.

15 “(4) Subsection (3)(c)(F) of this section does not prohibit a school
16 district or other entity from compensating parents of students with
17 disabilities for providing support for educational activities that would
18 otherwise be the responsibility of the school district.

19 “(5) If required by the Centers for Medicare and Medicaid Services,
20 the department may require a parent provider to assign an alternative
21 legal representative for the client child to make decisions about or
22 manage the client child’s attendant care services. The assignment:

23 “(a) Must be on a form prescribed by the department; and

24 “(b) Must clearly state that the assignment is limited to decisions
25 regarding the development and implementation of the client child’s
26 individual support plan and does not limit the authority of the parent
27 provider to make decisions for the client child with respect to health
28 care, education or religious training.

29 “(6) A parent provider is subject to the requirements of mandatory
30 reporting of abuse under ORS 124.060 and 419B.010, 24 hours per day,

1 seven days per week.

2 “(7) The department shall adopt rules for the program described in
3 this section and for nonparent caregivers providing attendant care
4 services to children under 18 years of age, using an advisory commit-
5 tee appointed under ORS 183.333 whose members represent the inter-
6 ests of parents, children with developmental or intellectual disabilities,
7 adults with disabilities, agencies, organizations of direct support pro-
8 fessionals and personal support workers and organizations that advo-
9 cate for persons with disabilities. A majority of the members of the
10 advisory committee must be parents of client children and either cli-
11 ent children or representatives of client children. The rules must in-
12 clude all of the following:

13 “(a) Requirements for agencies to provide training to parent pro-
14 viders according to the needs of the client children, scheduled as
15 agreed to by the parent provider;

16 “(b) A process for a client child to object to the hiring of the child’s
17 provider or to raise concerns about a provider’s caregiving;

18 “(c) Procedures to ensure that the program described in this section
19 is implemented consistently and equitably throughout this state;

20 “(d) A requirement that any appeal related to the implementation
21 of the Medically Fragile (Hospital) Model Waiver, the Medically In-
22 volved Children’s Waiver or the Behavioral (ICF/IDD) Model Waiver
23 granted by the Centers for Medicare and Medicaid Services is the sole
24 responsibility of the central office staff of the department; and

25 “(e) Other requirements that the department deems necessary to
26 carry out the provisions of this section.

27 “(8) Annually, the department shall report to the interim commit-
28 tees of the Legislative Assembly related to human services or, if the
29 Legislative Assembly is in session, to the committees of the Legislative
30 Assembly related to human services, in the manner provided in ORS

1 **192.245, updates on the program described in this section, including:**

2 **“(a) The number of client children receiving attendant care services**
3 **from parent providers under the program;**

4 **“(b) The number of hours of attendant care services provided by**
5 **parent providers;**

6 **“(c) A comparison of the cost per child of providing attendant care**
7 **services by parent providers under the program with the cost per child**
8 **of providing attendant care services by nonparent caregivers; and**

9 **“(d) A report on the adequacy of the direct care workforce of non-**
10 **parent caregivers in this state to provide services to all children with**
11 **developmental disabilities who are eligible for attendant care services.**

12 **“SECTION 2. (1) If necessary to stay within the legislatively ap-**
13 **proved budget for the program described in section 1 of this 2023 Act,**
14 **the Department of Human Services may cap the number of parents**
15 **eligible to be compensated as parent providers under the program at**
16 **a number no less than the number of parent providers in the tempo-**
17 **rary parent provider program in effect on May 10, 2023.**

18 **“(2) The department may increase the number of participants in the**
19 **program described in section 1 of this 2023 Act based on:**

20 **“(a) Increases in federal funding; or**

21 **“(b) Actual costs of the program falling below predicted costs.**

22 **“(3) An expansion of the program under subsection (2) of this sec-**
23 **tion must prioritize maintaining participation by parents described in**
24 **subsection (1) of this section and preserving services to children re-**
25 **ceiving services under the Medically Fragile (Hospital) Model Waiver,**
26 **the Medically Involved Children’s Waiver or the Behavioral (ICF/IDD)**
27 **Model Waiver granted by the Centers for Medicare and Medicaid Ser-**
28 **vices.**

29 **“SECTION 3. (1) The Department of Human Services shall apply for**
30 **any federal funding available, including but not limited to funds from**

1 the American Rescue Plan Act of 2021 (P.L. 117-7), to continue to
2 compensate parent providers, as defined in section 1 of this 2023 Act,
3 who were parent providers as of May 10, 2023, until the implementation
4 of section 1 of this 2023 Act.

5 “(2) If an assessment of a child with a parent provider results in a
6 determination that the child needs a lower level of services or support,
7 the parent provider shall continue to be compensated as a parent
8 provider for the following 12-month period.

9 “SECTION 4. (1) The Department of Human Services shall analyze
10 for each child receiving attendant care services, as defined in section
11 1 of this 2023 Act, in any out-of-home placement and for each child
12 with a parent provider, as defined in section 1 of this 2023 Act:

13 “(a) A comparison of the state expenditures per child including the
14 costs of:

15 “(A) Attendant care services and other in-home or community-
16 based services and supports;

17 “(B) Hospitalization and other medical assistance expenditures; and

18 “(C) Recruiting, training and retention of workers providing at-
19 tendant care services to the child.

20 “(b) The following data:

21 “(A) Race;

22 “(B) Socioeconomic status;

23 “(C) Education level of the parents;

24 “(D) Primary language of the parents;

25 “(E) The location where the child resides by county and zip code;
26 and

27 “(F) The child’s diagnosis that qualifies the child to receive at-
28 tendant care services.

29 “(2) No later than September 15, 2024, the department shall submit
30 a report, in the manner provided in ORS 192.245, of the analysis con-

1 ducted in accordance with this section, excluding any personally
2 identifying information, and any findings to the interim committees
3 of the Legislative Assembly related to human services and health.

4 **“SECTION 5.** (1) The Department of Human Services may not ad-
5 minister the program described in section 1 of this 2023 Act without
6 the Centers for Medicare and Medicaid Services’ approval of a waiver
7 under 42 U.S.C. 1396n(c), described in section 1 of this 2023 Act, or
8 without other arrangements with the Centers for Medicare and
9 Medicaid Services to receive federal financial participation in the costs
10 of the program.

11 **“(2)** The department may not administer a program that pays a
12 parent to provide attendant care or personal care services to the
13 parent’s minor child, including but not limited to the program de-
14 scribed in section 1 of this 2023 Act, using General Fund moneys that
15 are not matched by federal Medicaid funds.

16 **“SECTION 6.** On or before the earlier of August 1, 2023, or 30 days
17 after the effective date of this 2023 Act, the Department of Human
18 Services shall initiate the process, including the required Tribal Con-
19 sultation and request for public comments, to apply to the Centers for
20 Medicare and Medicaid Services for approval of a waiver under 42
21 U.S.C. 1396n(c), described in section 1 of this 2023 Act.

22 **“SECTION 7.** (1) Sections 4 and 6 of this 2023 Act are repealed on
23 January 2, 2025.

24 **“(2)** Section 3 of this 2023 Act is repealed on January 2, 2026.

25 **“SECTION 8.** This 2023 Act being necessary for the immediate
26 preservation of the public peace, health and safety, an emergency is
27 declared to exist, and this 2023 Act takes effect on its passage.”.