

SB 1557 -2, -3, -4, -5 STAFF MEASURE SUMMARY

Senate Committee On Human Services

Prepared By: Iva Sokolovska, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/12, 2/14

WHAT THE MEASURE DOES:

The measure mandates the Oregon Health Authority (OHA) to provide services and support to individuals under 21 in Oregon using funding from the Community First Choice option. It requires OHA to seek federal approval to disregard parental income when determining eligibility for services for children under 18. OHA must compile a list of services accessible to young people under 21 without special permissions or restrictions, and collaborate with the Department of Education to allocate federal funds for eligible Oregon students under 21. Furthermore, the measure specifies that evaluations by mental health professionals must be funded by the county or Oregon Public Defense Commission, and it restricts the duration of relocations for such evaluations to 14 days. Court-ordered restorative services for young people do not imply removal from their families or guardians, and the regulations regarding the relocation of young individuals for such services are modified.

REVENUE: No revenue impact

FISCAL: May have fiscal impact, but no statement yet issued

Detailed summary:

Section 1

Directs the Oregon Health Authority (OHA) to offer services and supports to individuals residing in this state who are under 21 years of age, using funding available through the Community First Choice option under 42 U.S.C. 1396n(k). Specifies criteria individuals under 21 need to satisfy to qualify for said services and supports. Directs OHA to adopt rules for eligibility criteria by January 1, 2025. Requires OHA to apply for a federal waiver to disregard the income of a parent of an individual under 18 by December 1, 2024.

Sections 2 & 3

Directs OHA to adopt, in rule, a list of services provided to individuals who under 21 and eligible for medical assistance without requirement for prior authorization, review for medical necessity or appropriateness, or requirement that the service be provided only by a provider who is in a coordinated care organization's network of providers. Describes types of services to be included in said list.

Section 4

Directs OHA and the Department of Education (ODE) to create plans to leverage federal Medicaid or Children's Health Insurance Program funds to support all Oregon students under 21 eligible for medical assistance and report to the Oregon Legislature by October 1, 2024. Specifies reporting requirements. Repeals these requirements on January 2, 2025.

Section 5

Clarifies that the county or the executive director of the Oregon Public Defense Commission need to pay all costs for an evaluation of youth conducted by a psychiatrist, licensed psychologist or regulated social worker employed by the Department of Human Services. Specifies that a youth may not be removed from the youth's current placement for the purpose of an evaluation unless the removal is for less than 14 days.

Sections 6 & 7

Clarifies that a court's order for restorative services does not commit the youth to the custody of OHA and it does not alter the guardianship of the youth.

Section 8

Modifies criteria allowing youth to be removed from current placement solely for receiving restorative services.

Section 9

Requires OHA to submit an application to disregard parental income to the Centers for Medicare and Medicaid Services by December 1, 2024.

Declares an emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Requires the Oregon Health Authority to seek any necessary federal authority to eliminate the waiting list for individuals to qualify for home and community-based services by March 25, 2025. Repeals this provision on January 2, 2026.

-3 Requires the Oregon Health Authority to seek a waiver from the Centers for Medicare and Medicaid Services to provide services and supports for individuals under 21 who qualify for Medicaid-funded services and require the level of care provided in a hospital, nursing home or inpatient psychiatric facility and are at risk of an institutional placement in the absence of receiving home and community-based services by March 1, 2025. Defines said services and supports. Repeals this provision on January 2, 2026.

-4 Removes the requirement for a court to issue a finding regarding the youth's fitness and requires the court to instead determine and enter an order regarding restorative services and the youth's fitness. Removes the permission for a court to remove youth from their current placement if the youth meets the medical necessity criteria for the restorative services placement.

-5 The amendment establishes policies and values to guide the implementation of the provisions of the measure. The amendment requires the Oregon Health Authority (OHA) to ensure that all eligible individuals, including those in the care of the Department of Human Services, can receive the medical help they need, whether at home or in their community. OHA and the Department of Human Services (ODHS) have to team up to create rules that help different agencies work together better for children who need services and set up a group that includes children and families to help make these rules. The amendment clarifies that individuals under 21 should not be turned away from mental health services just because they have other disabilities.

Detailed Summary:

Policy and Values

- Sets policies and values that guide the administration of the measure.

Entitlement Under the K Plan

- Requires the Oregon Health Authority (OHA) to ensure that all children and youth who are eligible for medical assistance, including children who are in the custody of the Department of Human Services (ODHS), who meet the criteria for an institutional level of care have access to the home and community-based services to which they are entitled under the state plan for medical assistance.

Coordination and Cross-Agency Collaboration

- Defines the terms "Medicaid/CHIP Operations Coordination Steering Committee", "multi-system involved child or youth", "serious emotional disturbance", and "wraparound team".
- Requires OHA and ODHS to adopt rules to facilitate cross-agency coordination that supports each multi-system involved child or youth who is eligible for services and supports funded through the Community First Choice Option under 42 U.S.C. 1396n(k) or the state plan for medical assistance to have all of the assessed needs of the child or youth fully met while avoiding the duplication of services.

- Specifies rule requirements and requires OHA and ODHS to appoint a rules advisory committee that includes multi-system involved children or youth and their families.

Investigation and Report on K Plan Services and Supports

- Defines the terms "mental health resource home" and "treatment foster care".
- Requires OHA and ODHS to collaborate with families and youth with lived experience to investigate the services and supports provided to individuals under the age of 21 years funded through the Community First Choice Option under 42 U.S.C. 1396n(k) that are provided to avoid a placement of a child or youth.
- Requires OHA to report on the investigation to the Legislative Assembly by October 1, 2024, and provide an updated report by January 1, 2025. Specifies reporting requirements.
- Repeals these provisions on July 2, 2026.

Access to Health Care

- Prohibits the denial of access to mental health assessment, treatment, or services to any individual under the age of 21 years on the basis that the individual also has an intellectual or developmental disability.
- Requires OHA to review and revise rules and contracts to ensure that individuals receiving medical assistance who are under 21 years of age have timely access to services without any prior authorization or requirement that the services be provided only by a provider who is in a coordinated care organization's network of providers. Defines said services.

BACKGROUND:

The "Community First Choice Option" allows States to provide home and community-based attendant services and supports to eligible Medicaid enrollees under their State Plan, established under the Affordable Care Act of 2010. This provides a 6-percentage point increase in Federal matching payments to States for service expenditures. Oregon became the second state to adopt the Community First Choice Option, as outlined in Section 2401 of the Affordable Care Act and Section 1915(k) of the Social Security Act. This addition to Oregon's Medicaid State Plan was approved on June 27, 2013, becoming effective on July 1, 2013. Known as the "K Plan" or "K Option" in Oregon, this initiative enables the state to offer a variety of home and community-based services under the State Plan instead of through 1915(c) waivers. The program, in line with ACA guidelines, covers attendant services and supports to help individuals with daily activities, instrumental tasks, and health-related needs. To qualify for Community First Choice services in Oregon, individuals must meet federal regulations specified in 42 CFR §441.510. They must be eligible for Medicaid in a group that includes nursing facility services or have income below 150 percent of the federal poverty level if their group doesn't cover nursing facility services. Additionally, individuals must require an institutional level of care. Those enrolled in Medicaid through a 1915(c) waiver must continue to meet waiver criteria and receive at least one waiver service monthly. Oregon mandates that participants using the special income standard for waivers apply excess income to waiver service costs, with excess income also applied to 1915(k) services. The state assesses individuals' level of care needs initially and at least annually, using various assessment tools tailored to their impairments. These assessments determine eligibility for services based on criteria such as hospital, nursing facility, or psychiatric institution care. Oregon is using the agency-provider model of service delivery, in which services and supports are provided by entities under a contract or provider agreement with the State. Under the federal regulations, this model is used whether the entity provides services directly through their own employees or arranges for services that are directed by the individual receiving the service ([Summaries of Approved 1915\(k\) State Plan Amendments](#))