

SB 1557 A STAFF MEASURE SUMMARY

Senate Committee On Human Services

Action Date: 02/14/24

Action: Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

Vote: 4-1-0-0

Yeas: 4 - Gelser Blouin, Manning Jr, Prozanski, Weber

Nays: 1 - Robinson

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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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. The measure mandates that OHA and the Department of Human Services collaborate to provide supports to all multi-system involved children and youth. The measure clarifies that individuals under 21 should not be turned away from mental health services just because they have an intellectual or developmental disability. OHA must 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.

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 Medicaid state plan.

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 consult with the Medicaid/CHIP Operations Coordination Steering Committee to adopt rules to facilitate cross-agency coordination to support multi-system involved children or youth who are eligible for services and supports funded through the Community First Choice Option under 42 U.S.C. 1396n(k) ("K Plan") or the Medicaid state plan to have all of their assessed needs fully met while avoiding the duplication of services. Specifies rule requirements.
- 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 to collaborate with ODHS and families and youth with lived experience to investigate the services and supports provided to individuals under the age of 21 that are funded through the K Plan and provided to avoid an out-of-home placement of a child or youth.

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- Requires OHA to report preliminary findings of the investigation and recommendations to the Legislative Assembly by October 1, 2024, and provide an updated report by March 1, 2025. Specifies reporting requirements.
- Sunsets these provisions on July 2, 2026.

Access to Health Care

- Prohibits 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, ODHS, the Department of Education (ODE), the Oregon Medical Board, and other health licensing agencies to adopt rules to implement the above provisions.
- 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. Describes said services.

Federal Funds for School-Based Services

- Directs OHA and 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.
- Directs OHA and ODE to report to the Oregon Legislature by October 1, 2024, and specifies reporting requirements.
- Sunsets these requirements on January 2, 2025.

Determination of Youth's Fitness to Proceed

- Clarifies that a county or the executive director of the Oregon Public Defense Commission needs to pay all costs for an evaluation of youth related to a juvenile court's determination of fitness to proceed in a delinquency proceeding if the evaluation is conducted by a psychiatrist, licensed psychologist, or regulated social worker employed by the Department of Human Services.
- Clarifies 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.
- Clarifies that a court's order for restorative services does not commit any youth to the custody of OHA and does not alter any guardianship of the youth.

Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Mental health services availability for youth with intellectual or developmental disabilities
- Supports needed for medically fragile children
- K-plan as a resource for long-term supports for the community
- K-plan rollout and history in Oregon
- Availability and accessibility of services for children in Oregon
- Implementation of Early Periodic Screening Diagnostics & Treatment (EPSDT) in Oregon

EFFECT OF AMENDMENT:

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 (ODHS), can receive the medical help they need, whether at home or in their community. OHA and the ODHS must collaborate to adopt rules that help different agencies coordinate their services for certain children and set up a group that includes children and families to develop 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:

- Removes requirement for OHA to determine eligibility if individuals, in the absence of home and community-based services and supports, require the level of care furnished in an institution providing psychiatric services for individuals under 21 years of age.

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- Removes requirement for OHA to establish an assessment tool to determine needed services and supports.
- Removes requirement for OHA to create and maintain a unit to coordinate services and supports to individuals under 21.
- Removes requirement for individuals and their families to direct their services and supports.
- Removes requirements for OHA to contract with one or more community-based entities to develop person-centered services.

Policy and Values

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

Entitlement Under the K Plan

- Requires 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, 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 Medicaid state plan.

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 to support multi-system involved children or youth eligible for services and supports funded through the K Plan or the Medicaid state plan 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 to collaborate with ODHS and families and youth with lived experience to investigate the services and supports provided to individuals under the age of 21 years funded through the K Plan that are provided to avoid an out-of-home 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 March 1, 2025. Specifies reporting requirements.
- Sunsets 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, ODHS, the Department of Education (ODE), the Oregon Medical Board, and other health licensing agencies to adopt rules to implement the above provisions.
- 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, describes said services.

Federal Funds for School-Based Services

- Sunsets provisions on January 2, 2025.

BACKGROUND:

The Community First Choice Option, established under the Affordable Care Act (ACA) of 2010, allows states to provide home and community-based attendant services and supports to eligible Medicaid enrollees under their Medicaid State Plans. 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

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under the Medicaid State Plan. 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. 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](#)).