

Requested by Senator HAYDEN

**PROPOSED AMENDMENTS TO
SENATE BILL 1565**

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

3 On page 5, delete lines 1 through 7 and insert:

4 **“SECTION 1.** ORS 427.191 is amended to read:

5 “427.191. (1) As used in this section:

6 “(a) ‘Agency’ means an agency that hires, trains and supervises direct
7 support professionals using state funds received from the Department of
8 Human Services **and includes providers of agency with choice services.**

9 “(b) ‘Attendant care services’ means services provided directly to an in-
10 dividual with a disability to assist with activities of daily living, instru-
11 mental activities of daily living and health-related tasks.

12 **“(c) ‘Authorized hours’ means the number of hours approved in an**
13 **individualized service plan, as defined in ORS 427.101, for attendant**
14 **care services.**

15 “[~~(c)~~] (d) ‘Child’ means an individual under 18 years of age who:

16 “(A) Has a developmental or intellectual disability; or

17 “(B) Meets the eligibility criteria to receive services under the Medically
18 Fragile (Hospital) Model Waiver or the Medically Involved Children’s
19 Waiver approved by the Centers for Medicare and Medicaid Services under
20 42 U.S.C. 1396n(c).

21 “[~~(d)~~] (e) ‘Client’ means an individual who receives attendant care ser-

1 vices.

2 “[*e*] (f) ‘Client child’ means a child who receives attendant care services
3 from the child’s parent.

4 “[*f*] (g) ‘Developmental disability services’ has the meaning given that
5 term in ORS 427.101.

6 “[*g*] (h) ‘Direct support professional’ means an individual who is hired,
7 employed, trained, paid and supervised by an agency to provide attendant
8 care services to a client of the agency.

9 “[*h*] (i) ‘Nonparent caregiver’ means a direct support professional, per-
10 sonal support worker or similar provider who is paid to provide attendant
11 care services to clients who are not the provider’s children.

12 “[*i*] (j) ‘Parent’ includes a:

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

14 “(B) Stepparent of a child; and

15 “(C) Legal guardian of a child.

16 “[*j*](A) (k)(A) ‘Parent provider’ means a parent who is paid to provide
17 attendant care services to the parent’s minor child.

18 “(B) ‘Parent provider’ does not include a parent who is paid to provide
19 attendant care services to [*a child*] **an individual, related to the parent,**
20 who is 18 years of age or older.

21 “[*k*](A) (L)(A) ‘Personal support worker’ means an individual who is
22 employed by a client or the client’s representative and paid to provide at-
23 tendant care services to the client.

24 “(B) ‘Personal support worker’ does not include a direct support profes-
25 sional.

26 “[*L*] (m) ‘State plan’ means Oregon’s state plan for medical assistance,
27 described in 42 U.S.C. 1396a, approved by the Centers for Medicare and
28 Medicaid Services.

29 “[*m*] (n) ‘Very high behavioral needs’ means a minor child’s extraor-
30 dinary needs for support due to the child’s behavioral condition as indicated

1 by a federally approved functional needs assessment adopted by the depart-
2 ment that assigns the child to the highest service level.

3 “[*n*] (o) ‘Very high medical needs’ means a minor child’s extraordinary
4 needs for support due to the child’s medical condition as indicated by a
5 federally approved functional needs assessment adopted by the department
6 that assigns the child to the highest service level.

7 “(2) Subject to rules adopted under subsection [(8)] (11) of this section,
8 to section 2, chapter 367, Oregon Laws 2023, and to available funding, the
9 department shall administer a program to compensate parents to provide at-
10 tendant care services to the parents’ children who have been assessed by the
11 department to have very high medical or very high behavioral needs.

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

13 “(a)(A) A parent provider must be employed by an agency [*and not by the*
14 *child or the other parent of the child*]; **and**

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

20 “(b)(A) **Another parent, and not the parent provider, must be the**
21 **employer of record for the client child; or**

22 “(B) **The parent provider must assign an alternative legal repre-**
23 **sentative for the client child to make decisions about or manage the**
24 **development and implementation of the client child’s individual sup-**
25 **port plan. The assignment must:**

26 “(i) **Be on a form prescribed by the department; and**

27 “(ii) **Clearly state that the assignment is limited to decisions re-**
28 **garding the development and implementation of the client child’s in-**
29 **dividual support plan and does not limit the authority of the parent**
30 **provider to make decisions for the client child with respect to health**

1 **care, education or religious training.**

2 “[*(c)*] (4) [*The*] **An** agency employing [*the*] **a** parent provider to provide
3 attendant care services to [*the*] **a** client child:

4 “[*(A)*] (a) May not employ a parent provider as an independent contrac-
5 tor; **and**

6 “[*(B)*] (b) Shall pay parent providers overtime at the same rate and under
7 the same circumstances as direct support professionals who are not parent
8 providers[;].

9 “[*(C)*] (5) Except as authorized by the department by rule, [*may not pay*
10 *providers of attendant care services, including parent providers,*] **a parent**
11 **provider may not be paid:**

12 “(a) To provide services to a minor child during school hours unless the
13 minor child is temporarily at home recovering from surgery or illness and
14 the temporary absence from school is recommended by the child’s health care
15 provider; [*and*] **or**

16 “[*(D)*] (b) [*May not pay providers of attendant care services, including*
17 *parent providers,*] To provide services to a minor child during school hours
18 due to the determination of a school district or due to the choice of a parent
19 of the client child to:

20 “[*(i)*] (A) Have the child regularly attend school less than the number of
21 school hours attended by students without disabilities who are in the same
22 grade and the same school district as the client child;

23 “[*(ii)*] (B) Homeschool the client child; or

24 “[*(iii)*] (C) Enroll the client child in a private school that offers fewer
25 school hours than the school hours offered by the local public school to the
26 majority of students in the same grade as the client child.

27 “[*(4)*] (6) Subsection [*(3)(c)(D)*] (5)(b) of this section does not prohibit a
28 school district or other entity from compensating parents of students with
29 disabilities for providing support for educational activities that would oth-
30 erwise be the responsibility of the school district.

1 “[5] (7) A parent provider, during the hours that the parent provider is
2 paid to provide one-on-one attendant care services to the client child:

3 “(a) May not be responsible for a vulnerable adult who requires physical
4 care and monitoring;

5 “(b) May not be responsible for the care of a child, other than the client
6 child, who is under 10 years of age and shall have another caregiver imme-
7 diately available at all times to attend to the needs of the child; and

8 “(c) Unless they are included as a goal or service in the child’s individual
9 support plan and related to the child’s disability-related support needs, may
10 not perform tasks that are not for the primary benefit of the client child,
11 including but not limited to:

12 “(A) Grocery shopping for the household;

13 “(B) Housekeeping not required for the disability-related support needs
14 of the client child;

15 “(C) Remote work or operation of a home business; or

16 “(D) Transporting individuals other than the client child to or from ac-
17 tivities or appointments.

18 “[6] *If required by the Centers for Medicare and Medicaid Services, the*
19 *department may require a parent provider to assign an alternative legal rep-*
20 *resentative for the client child to make decisions about or manage the devel-*
21 *opment and implementation of the client child’s individual support plan. The*
22 *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 regard-*
25 *ing the development and implementation of the child’s individual support plan*
26 *and does not limit the authority of the parent provider to make decisions for*
27 *the client child with respect to health care, education or religious training.]*

28 **“(8) The number of authorized hours that a parent provider may**
29 **be paid to provide attendant care services under the program described**
30 **in this section may not be limited except by:**

1 **“(a) The choice of the parent provider or the parent provider’s in-**
2 **ability to provide the care;**

3 **“(b) The agency that employs the parent provider;**

4 **“(c) Any applicable collective bargaining agreement; or**

5 **“(d) The client child.**

6 **“(9) A nonparent caregiver may be paid using funding available**
7 **through the state’s Community First Choice Option under 42 U.S.C.**
8 **1396n(k).**

9 **“[(7)] (10)** A parent provider is subject to the requirements of mandatory
10 reporting of abuse under ORS 124.060 and 419B.010, 24 hours per day, seven
11 days per week.

12 **“[(8)] (11)** The department shall adopt rules for the program described in
13 this section using an advisory committee appointed under ORS 183.333 that
14 represents the interests of parents, children with developmental or intellec-
15 tual disabilities, adults with disabilities, agencies, organizations of direct
16 support professionals and personal support workers and organizations that
17 advocate for persons with disabilities. The rules must include all of the fol-
18 lowing:

19 **“(a)** Strategies to safeguard nonparent caregivers and avoid the displace-
20 ment of nonparent caregivers by parent providers;

21 **“(b)** Requirements for agencies to demonstrate consistent efforts to re-
22 cruit, train and retain nonparent caregivers;

23 **“(c)** Training requirements for:

24 **“(A)** Parent providers regarding federal and state administrative rules
25 regulating home-based and community-based services, including the impact
26 of the rules on parent-child relationships with respect to discipline, super-
27 vision, physical intervention and self-determination of client children during
28 the hours that the parent provider is being paid to provide attendant care
29 services;

30 **“(B)** Client children to learn to advocate for themselves with respect to

1 choosing and managing direct support professionals before and after reaching
2 18 years of age; and

3 “(C) Community developmental disability programs related to the em-
4 ployment of parent providers, including on how to support families to man-
5 age issues concerning conflicts of interest, provider recruitment and
6 retention and the empowerment of the client child to have a meaningful
7 voice in the selection of the client child’s direct support professionals;

8 “(d) A process for a client child to object to the hiring of any caregiver,
9 including the child’s parent, or to raise concerns about a provider’s
10 caregiving;

11 “(e) Procedures to ensure that the program described in this section is
12 implemented consistently and equitably throughout this state;

13 “(f) A requirement that any appeal related to the requirements of or
14 benefits under the program is the sole responsibility of the central office
15 staff of the department; and

16 “(g) Other requirements that the department deems necessary to carry out
17 the provisions of this section.

18 “[9] (12) The department may adopt rules necessary to manage the cost,
19 size and growth rate of the program described in this section that are nec-
20 essary to protect the eligibility for and levels of services under programs
21 serving individuals receiving developmental disability services provided for
22 in the state plan, *[including the development of]* **except by developing** cri-
23 teria to limit the number of children eligible to participate in the program.

24 “[10] (13) Annually, the department shall report to the interim commit-
25 tees of the Legislative Assembly related to human services or, if the Legis-
26 lative Assembly is in session, to the committees of the Legislative Assembly
27 related to human services, in the manner provided in ORS 192.245, updates
28 on the program described in this section, including:

29 “(a) The number of client children receiving attendant care services, the
30 number of children receiving the services from parent providers and the

1 number of children receiving the services from nonparent caregivers;

2 “(b) The number of hours of attendant care services provided by parent
3 providers and number of hours of attendant care services provided by non-
4 parent caregivers;

5 “(c) A comparison of the cost per child of providing attendant care ser-
6 vices by parent providers under the program with the cost per child of pro-
7 viding attendant care services by nonparent caregivers; and

8 “(d) A report on the adequacy of the direct care workforce in this state
9 to provide services to all children with developmental disability services who
10 are eligible for attendant care services.

11 **“(14) Any moneys appropriated to the department by the Legislative
12 Assembly for the purpose of compensating parent providers or for the
13 staffing necessary for compensating parent providers under this sec-
14 tion may not be used by the department for any other purpose.”.**

15 In line 14, delete “April 1, 2024” and insert “January 1, 2025”.

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