



# Oregon

Kate Brown, Governor



**Oregon Department of Human Services**

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**Oregon Department of Human Services  
Legislative Report on HB 5026, 2019  
OPI Family Caregiver Support Budget Note  
December 22, 2020**

HB 5026 (2019) contained the provisions of the budget for the Oregon Department of Human Services (ODHS). The budget report contained the following budget note:

*The Department of Human Services, in collaboration with the Oregon Health Authority, shall explore opportunities to obtain federal funding for the Oregon Project Independence program and family caregiver respite programs. The Department shall convene an advisory committee to make recommendations on the design of the programs, the benefit packages and the application for federal approval. The Department shall report the results of this work to the appropriate legislative policy committee(s) no later than December 31, 2020. Future implementation of any new program(s) would be contingent upon any necessary approvals from the Centers of Medicaid and Medicare Services (CMS), potentially including a new 1115 demonstration project waiver. If a federal waiver is required, the Department shall apply for such a waiver, but only implement the program(s) if the budget is available, and CMS approves the program through a new and distinct waiver from the currently approved Oregon Health Plan waiver. Lastly, if CMS requires the state to amend the existing Oregon Health Plan waiver, the Department/state shall withdraw the request.*

This report is intended to fulfill the requirements contained in the first part of the budget note.

**Background:**

In the fall of 2019, staff from ODHS' Office of Aging and People with Disabilities (APD) researched potential mechanisms for federal matching funds through the federal Centers for Medicare and Medicaid Services (CMS). Staff also examined other states' programs that were similar to the concepts identified in the budget note. Staff found that similar programs in Washington State, which used CMS's 1115 Model Demonstration Waiver as a mechanism to obtain federal matching funds. The 1115 Waiver allows states to waive Medicaid requirements, as requested in the state's demonstration request, if states can show the proposed set of services can offer quality services and supports at a lower cost to the federal government.

Oregon Project Independence (OPI) and family caregiver respite programs have the potential to meet these aims. Specifically, they would provide a lower level of services to individuals who have not yet entered Medicaid long-term services and supports. We believe Oregon's waiver would be able to demonstrate that the consumers served could maintain their level of

**“Assisting People to Become Independent, Healthy and Safe”**

independence, and that they would either prevent or delay their entry into more expensive, higher level services and supports in the Medicaid system.

**Advisory Committee Recommendations:**

In January 2020, APD convened an advisory committee composed of 23 members, including representatives from consumer advocacy groups, area agencies on aging, consumers and consumer advisory committees, and APD providers. The advisory committee met three times and discussed APD-initiated concepts on program eligibility criteria and service packages, as well as other elements of an 1115 Waiver, such as program administration and definitions of qualified providers.

The group agreed to a set of principles, resulting in potential program design and benefit packages. These principles included honoring the values of the consumer’s independence, choice, and dignity. These values have been the cornerstone of Oregon’s aging and disability policy. Specifically, the design should ensure both older adults and younger people with physical disabilities have access to these services with federal funds enhancing, not replacing nor supplanting, the existing OPI and family caregiver respite programs in the state.

After the committee suspended meetings during the response to the COVID-19 outbreak in March, it met on June 26, 2020, to consider the basic structure of the programs in the department’s application to CMS.

In addition to the committee, APD also conducted an informal consultation with the Tribes to gain their input early in the process. Additionally, APD met with the Governor’s Commission on Senior Services to gain their input prior to formalizing the recommendations. Below is a summary of the current demonstration proposal to which the committee agreed:

***Eligibility:***

- Adults age 18 and older;
- Meets Oregon’s Service Priority Level 1 through 18;
- Income no greater than 400 percent of the Federal Poverty Level (FPL);
- Assets no greater than the average cost of six months in a nursing facility;
- Currently living in their own home, and not a provider-controlled or owned or operated home or facility; and
- Does not utilize other Medicaid benefits except Medicare Buy-in benefits.

***Service Package:***

For OPI, the recommendation was to continue with the OPI service package currently administered in statute and rule. For the family caregiver respite program, consumers would be eligible to receive services and supports totaling no more than \$6,000 per year; pro-rated in the year the program starts, with annual cost of living increases. Services would include:

- In-home support services or personal care services to meet, maintain, strengthen or restore an individual's functioning in one's home;
- Adult day services serving individuals in a non-residential community-based programs, providing services for part of the day;
- Respite services;
- Emergency response systems;
- Special medical equipment and supplies;
- Supports for consumer direction;
- Assistive technology;
- Minor consumer home modifications;
- Home delivered meals;
- Assisted transportation, in conjunction with another service;
- Supportive services such as support groups and counseling for individuals and their caregivers; and
- Education and training for unpaid caregivers.

The estate of individuals participating in either program would be exempt from estate recovery.

***Program Administration:***

The advisory committee and APD explored many ideas for administering the program. The local Area Agencies on Aging (AAAs) have had experience administering OPI as well as family caregiver respite programs funded by the Older Americans Act. However, for programs funded by Medicaid, there is a requirement of the state or local governments performing eligibility determinations for these programs. The final recommendation is to have APD and the Type B AAAs determine eligibility, and the local AAAs perform the case management and program administration of both the federally funded OPI and family caregiver respite programs.

**Note about the original form of Oregon Project Independence:**

As part of the recommendation, APD and the advisory committee concluded that the current OPI program should still be available on a smaller scale with a minimum of \$5 million in General Funds. This program and its funding is essential for meeting the maintenance of effort (MOE) requirements for Oregon's Older Americans Act programs. In addition, the state-funded portion of OPI can be used to assist consumers who otherwise would not be eligible for programs that receive federal Medicaid funds, or who do not meet program eligibility of the proposed OPI in the 1115 Waiver. Specific details would still need to be resolved in the stakeholder community as there are differing opinions on the amount of general fund that should be reserved.

***Next Steps***

If the Legislature approves the concept and directs APD to pursue an 1115 waiver request with CMS, APD will begin the formal process of Tribal consultation and public comment. Additionally, APD will gain input from the Governor's Commission on Senior Services, the Oregon Home Care Commission and the Oregon Disabilities Commission prior to any submission to CMS.

The Oregon Health Authority (OHA) is the Single State Medicaid Agency for Oregon and their role in this effort cannot be minimized. OHA will need to oversee APD's drafting of the waiver request, submitting on behalf of Oregon and participating in any subsequent negotiations with CMS. We expect that any negotiations with CMS could potentially take up to a year, if approval is ultimately granted.

***Action Requested:***

ODHS recommends the Senate Human Services Committee and the House Human Services Committee acknowledge receipt of this report and authorize ODHS to begin pursuing an 1115 Demonstration waiver containing the concepts in this report. The Department would welcome opportunities to brief you on our progress at any intervals you define.

For more information, please contact:

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