

## HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3073

By COMMITTEE ON RULES

April 30

1 On page 11 of the printed A-engrossed bill, delete lines 3 through 45.

2 On page 12, delete lines 1 through 23 and insert:

3 “**SECTION 8.** ORS 329A.500 is amended to read:

4 “329A.500. *[(1) The Department of Human Services, in consultation with the Early Learning Divi-*  
5 *sion and the Office of Child Care, shall adopt rules for the operation of subsidy programs for*  
6 *employment-related child care administered by the department. At a minimum, and taking into account*  
7 *the availability of funds, the rules must provide the following:]*

8 “*[(a) Subsidy recipients may be entitled to receive the subsidy for at least one year, regardless of*  
9 *changes in employment. Rules adopted by the department may provide for termination of subsidy el-*  
10 *igibility for reasons other than changes in employment during the one-year period. Exit eligibility and*  
11 *copays must be structured to mitigate the financial impact of reduced subsidy support due to increased*  
12 *income.]*

13 “*[(b) Subsidy recipients who are enrolled in coursework, as defined by the department by rule, may*  
14 *be entitled to receive the subsidy to enable the subsidy recipient to attend and participate in the*  
15 *coursework provided all other eligibility requirements are met.]*

16 “*[(c) Persons who are self-employed may qualify for subsidy programs provided all other eligibility*  
17 *requirements are met.]*

18 “*[(d) Subsidy recipients who voluntarily choose child care providers that meet minimum standards*  
19 *established under the tiered quality rating and improvement system implemented under ORS 329A.261*  
20 *may qualify for lower copayments. A fair representation of the subsidy recipients who qualify for lower*  
21 *copayments must be persons with children who are from underserved racial, ethnic or minority popu-*  
22 *lations. In addition, child care providers that meet specified minimum standards established under the*  
23 *tiered quality rating and improvement system may receive an enhanced reimbursement under the sub-*  
24 *sidy programs.]*

25 “*[(e) Subsidy recipients must report a change of child care provider to the department during the*  
26 *period a subsidy is being received.]*

27 “**(1) As used in this section, ‘family’ means any individual who is responsible for the care,**  
28 **control and supervision of a child.**

29 “**(2) The Department of Human Services and the Early Learning Council shall adopt rules**  
30 **for the operation of the Employment Related Day Care subsidy program administered by the**  
31 **department.**

32 “**(3) The rules adopted under this section must support equitable access to a supply of**  
33 **diverse child care providers that meet the needs of families, as those needs are defined by**  
34 **the department by rule, including:**

35 “**(a) Cultural diversity;**

1       “(b) Linguistic diversity;  
2       “(c) Racial and ethnic diversity; and  
3       “(d) Diversity of provider types.  
4       “(4) The rules adopted under this section must provide that:  
5       “(a) A child’s eligibility to participate in the Employment Related Day Care subsidy pro-  
6       gram must be based on:  
7       “(A) The household income of a child’s family; and  
8       “(B) Any other criteria established by the department.  
9       “(b) A child must be able to receive care that:  
10       “(A) Meets the child’s developmental needs; and  
11       “(B) Enables the child’s family to complete activities that relate to family well-being,  
12       which may include the family’s work hours, education hours, commute time, study time and  
13       other activities that support family well-being.  
14       “(c) Payment to child care providers must be based on enrollment instead of attendance.  
15       “(5) Taking into account the availability of funds, the rules adopted under this section  
16       must establish a sliding scale for copayment, with the requirement that a copayment may  
17       not exceed seven percent of the household income of the child’s family.  
18       “(6) In developing rules under this section, the department shall consider policies for in-  
19       creasing the stability and continuity of a child’s access to a family’s preferred child care  
20       provider.  
21       “(7) Rules adopted by the department under this section establish minimum requirements  
22       pertaining to the Employment Related Day Care subsidy program and may not be construed  
23       to preempt, limit or otherwise diminish the applicability of any policy, standard or collective  
24       bargaining agreement that provides for an increased subsidy or a child care provider re-  
25       imbursement amount under state or federal law.  
26       “[(2)] (8)(a) The department shall work to meet federal recommendations for income eligibility  
27       and market access in regard to [*employment-related child care*] **the Employment Related Day Care**  
28       **subsidy program** administered by the department.  
29       “(b) Notwithstanding any provision of this section or any rule adopted by the department  
30       pursuant to this section, the laws and regulations applicable to any federal funds shall govern  
31       when any aspect of child care is funded by federal funds.”.  
32       On page 13, delete lines 1 and 2 and insert:  
33       “**SECTION 9.** (1) The amendments to ORS 329A.500 and 329A.505 by sections 8 and 8a of  
34       this 2021 Act become operative on October 1, 2021.  
35       “(2) Notwithstanding the operative date specified in subsection (1) of this section, the  
36       Department of Human Services and the Early Learning Council may take any action before  
37       the operative date specified in subsection (1) of this section that is necessary to enable the  
38       department and council to adopt rules as required under ORS 329A.500 (4)(c) and (5) no later  
39       than October 1, 2021.”.  
40       On page 59, delete lines 25 through 45.  
41       On page 60, delete lines 1 through 38 and insert:  
42       “**SECTION 73.** ORS 329A.500, as amended by section 8 of this 2021 Act, is amended to read:  
43       “329A.500. (1) As used in this section, ‘family’ means any individual who is responsible for the  
44       care, control and supervision of a child.  
45       “(2) The [*Department of Human Services and the*] Early Learning Council shall adopt rules for

1 the operation of the Employment Related Day Care subsidy program administered by the Depart-  
2 ment of **Early Learning and Care**.

3 “(3) The rules adopted under this section must support equitable access to a supply of diverse  
4 child care providers that meet the needs of families, as those needs are defined by the [department]  
5 **council** by rule, including:

6 “(a) Cultural diversity;

7 “(b) Linguistic diversity;

8 “(c) Racial and ethnic diversity; and

9 “(d) Diversity of provider types.

10 “(4) The rules adopted under this section must provide that:

11 “(a) A child’s eligibility to participate in the Employment Related Day Care subsidy program  
12 must be based on:

13 “(A) The household income of a child’s family; and

14 “(B) Any other criteria established by the [department] **council**.

15 “(b) A child must be able to receive care that:

16 “(A) Meets the child’s developmental needs; and

17 “(B) Enables the child’s family to complete activities that relate to family well-being, which may  
18 include the family’s work hours, education hours, commute time, study time and other activities that  
19 support family well-being.

20 “(c) Payment to child care providers must be based on enrollment instead of attendance.

21 “(d) **A child care provider may be eligible to receive a higher rate of reimbursement or**  
22 **other financial incentives for:**

23 “(A) **Participating in quality improvement measures;**

24 “(B) **Providing culturally or linguistically specific or appropriate care;**

25 “(C) **Providing evening, overnight or weekend care;**

26 “(D) **Providing care to children with a diagnosed disability;**

27 “(E) **Providing infant or toddler care;**

28 “(F) **Providing care to a population that has been identified as historically having an in-**  
29 **adequate child care provider supply; or**

30 “(G) **Providing any other specialized care that justifies a higher rate of reimbursement.**

31 “(5) Taking into account the availability of funds, the rules adopted under this section [must  
32 establish]:

33 “(a) **Must establish** a sliding scale for copayment, with the requirement that a copayment may  
34 not exceed seven percent of the household income of the child’s family.

35 “(b) **Must provide that eligibility to participate in the Employment Related Day Care**  
36 **subsidy program:**

37 “(A) **May not be based on the citizenship or legal status of a child or a child’s family; and**

38 “(B) **Shall, for a child who met the initial eligibility requirements prescribed under sub-**  
39 **section (4) of this section, continue for a minimum of 12 months from the date of initial el-**  
40 **igibility unless the child’s family leaves the state or requests a termination of benefits or for**  
41 **any other reason identified by the council. Rules adopted under this subparagraph may give**  
42 **priority to families receiving temporary assistance under the temporary assistance for needy**  
43 **families program described in ORS 412.006.**

44 “(c) **May provide that a determination of eligibility to participate in the Employment**  
45 **Related Day Care subsidy program consider the availability of family to attend to the child,**

1 **regardless of the family's physical presence.**

2 “(6) In developing rules under this section, the [*department*] **council** shall consider policies for  
3 increasing the stability and continuity of a child's access to a family's preferred child care provider.

4 “(7) Rules adopted by the [*department*] **council** under this section establish minimum require-  
5 ments pertaining to the Employment Related Day Care subsidy program and may not be construed  
6 to preempt, limit or otherwise diminish the applicability of any policy, standard or collective bar-  
7 gaining agreement that provides for an increased subsidy or a child care provider reimbursement  
8 amount under state or federal law.

9 “(8)(a) The [*department*] **council** shall work to meet federal recommendations for income eligi-  
10 bility and market access in regard to the Employment Related Day Care subsidy program adminis-  
11 tered by the [*department*] **council**.

12 “(b) Notwithstanding any provision of this section or any rule adopted by the [*department*]  
13 **council** pursuant to this section, the laws and regulations applicable to the federal funds shall  
14 govern when any aspect of child care is funded by federal funds.”.

15 On page 66, line 19, delete “15” and insert “30”.

16 In line 25, after “Division” insert “, including any recommendations for legislation or other au-  
17 thority necessary for the collection of subsidy overpayments made under the program”.

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