



Presentation to Senate Committee on Human Services

2023 Legislative Session, Public Hearing on SB 91 and SB 646

# Office of Developmental Disabilities Services (ODDS)

---

Caitlin Shockley, Policy and Training Manager

Feb. 6, 2023

# Outline

- I. Who we are
- II. Funding authorities
- III. In-home services and attendant care
- IV. Assessments and in-home hours
- V. ODDS and schools
- VI. Pandemic and paid parent caregivers
- VII. SB 91 & SB 646
- VIII. Closing remarks
- IX. Questions

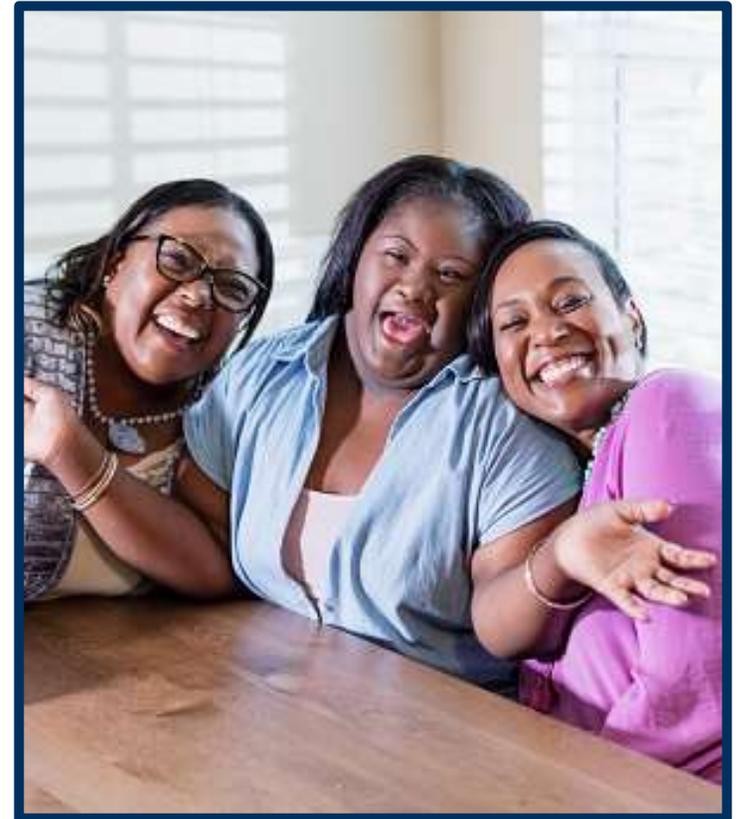
Office of Developmental  
Disabilities Services



# Who we are

---

- Oregon's system of supports for people with intellectual and developmental disabilities (I/DD) provides services across the lifespan.
- Office of Developmental Disabilities Services (ODDS) oversees Oregon's I/DD system.
- The system is built on collaboration between the state and local governments, Tribal partners, self-advocates and families, nonprofits, provider agencies and community partners.
- We collaborate to provide services, supports and advocacy that empower people with I/DD to thrive as valued community members.



# Our mission and vision

- **Mission:** ODDS, partners and the developmental disabilities community come together to provide services, supports and advocacy to empower Oregonians with intellectual and developmental disabilities (I/DD) to live full lives in their communities.
- **Vision:** People and families access quality supports that are simple to use and responsive to their strengths, needs and choices, while they live and thrive as valued members of their community.



# Who we serve

---

We serve nearly **33,000 people** in Oregon who experience intellectual and developmental disabilities (I/DD).

- **10,239 children**
- **22,755 adults**

**In order to be eligible for ODDS services, a person must:**

- Have an **intellectual disability** as determined by IQ with onset before age 18 and limited ability to handle day-to-day activities; or,
- Experience a **developmental disability** with onset before age 22 with limited ability to handle day-to-day activities; and,
- Meet financial eligibility for Medicaid services.



## Current Medicaid authorities

Adult waiver

Children  
waiver

Medically  
Involved  
Model waiver

Medically  
Fragile Model  
waiver

Behavioral  
Model waiver

Community First Choice Option ("K Plan")

Other State Plan services

# Child enrollment by service settings

<b>Total Children enrolled</b>	<b>10,239</b>
CDDP enrollment	9,826
Case management (CM) only	4,384
CM with funded services	5,855
In-home support	4,232
Residential care	124
Host homes	6
Foster care	296
SACU	15
<b>CIIS total enrollment</b>	<b>375</b>
CIIS: Intensive Behavior	98
CIIS: Medically Involved	177
CIIS: Medically Fragile	100



# Funding Authorities: K Plan and waivers

---

## K Plan

- Attendant care (in-home, residential, foster care, day support, on the job)
- Assistive technology
- Professional behavior services
- Community nursing services
- Home modifications, indoor
- Community transportation
- Relief care

## Waivers

- Case management
- Employment services
- Specialized medical supplies
- Vehicle modifications
- Family training
- Home modifications-outdoor
- Benefits counseling
- Direct nursing services (adults)
- Private duty nursing (CIIS only)
- Individual directed goods and services (CIIS only)

# In-home services

---

**In-home services empower and support children and adults who live in their own or family home.**

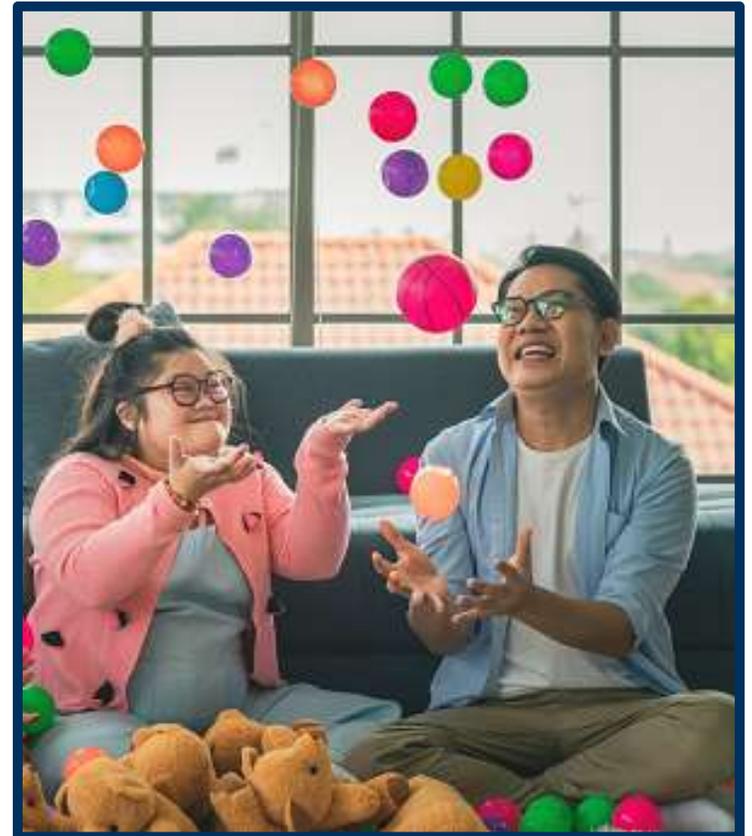
- By far, most people eligible for I/DD services receive in-home services.

## **Attendant care**

- Hourly service
- Provide supports at home and in the community
- Person directs services
- Person can hire personal support worker or choose agency provider

## **Other services**

- Transportation
- Behavior supports
- Technology
- Home modifications



## Attendant care

---

**Attendant care assists with activities of daily living (ADL), instrumental activities of daily living (IADL) and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding.**

- Available through the Community First Choice State Plan
- Provided by direct support professionals (DSPs) and personal support workers (PSWs)
  - 18+ years of age
  - Background check
  - Mandatory training
  - CPR and first aid certification



## In-home agency features

### All in-home agencies

- Must employ DSPs (no independent contractors)
- Must ensure DSPs meet basic qualifications including background checks
- Provide average DSP wages at or above ODDS rate model assumption

### CLS agencies

- DSPs receive 12 hours of annual training
- Current rate \$33.76/hour

### Standard model agencies

- DSPs receive 24 hours of annual training
- Staff coordination and backup support policies
- On-call supervisors available for DSP support
- Coordination and support for community access
- Develop implementation plan and report progress toward goals
- Follow supportive protocols for risk management
- Current rate \$41.13/hour

# Child Needs Assessment (CNA)

**Assessment for children who live in family home that produces maximum number of attendant care hours per month available to the child.**

- Assesses ADL/IADL, behavior and health-related support needs.
- Implemented with K Plan in 2013.
- CNA uses hour-stacking method.
- Built-in age milestones.
- Assesses areas of support where 2:1 ADL/IADL may be needed.
- Phasing out CNA in order to transition to ONA.



## In-home hours: Lawsuit and Injunction

- Following direction to reduce rate of cost growth, in the fall of 2016, ODDS took action to reduce authorizations by 30%.
- Lawsuit filed April 2017.
- Preliminary injunction put in place until lawsuit resolved.
- Result: No reductions to authorized hours.
- ODDS worked with Disability Rights Oregon to address plaintiff's concerns and improve the system.
- Injunction remains in place.

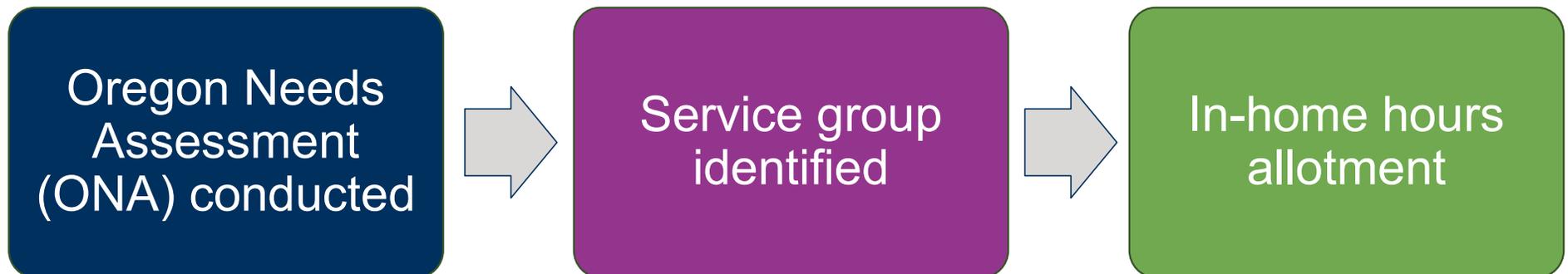


# In-home hours: Oregon Needs Assessment (ONA)

---

ODDS developed new assessment instrument, Oregon Needs Assessment (ONA), tested it for validity and reliability.

- Implemented as functional needs assessment in July 2018.
- ODDS worked with contractor and community partners to develop and validate a framework for grouping people according to level of need into service groups.
- Service groups assign in-home hour allotments based on the ONA.



# Service groups: Based on needs

---

Based on their ONA assessments individuals are assigned a service group that corresponds to their assessed support needs and age.

Adult 18+	Adolescent 12–17	Child 4–11	Infant/toddler 0–3
Very low	Very low	Low to very low	Infant/toddler supports
Low	Low		
Moderate	Moderate	Moderate	
High	High	High to very high	
Very high	Very high		

# Service groups: In-home hour allotments

---

## Infant/toddler 0–3

Service group	Hours per week	Hours per month
Infant/toddler supports	11 to 14	48 to 61

Child 4–11	School year		Summer	
	Hours/week	Hours/month	Hours/week	Hours/month
Very low to low	15 to 19	65 to 83	17 to 21	74 to 91
Moderate	20 to 22	84 to 96	22 to 25	92 to 109
High to very high	23 to 35	97 to 152	26 to 40	110 to 174

## Service groups: In-home hour allotments

---

Adolescent 12–17	School year		Summer	
	Hours/week	Hours/month	Hours/week	Hours/month
Very low	10 to 13	43 to 56	14 to 17	61 to 74
Low	14 to 20	57 to 87	18 to 24	75 to 104
Moderate	21 to 24	88 to 104	25 to 28	105 to 122
High	25 to 39	105 to 169	29 to 46	123 to 200
Very high	40 to 55	170 to 239	47 to 65	201 to 282

# In-home hours: Current status

---

## Implementation delayed by COVID-19 and ARPA maintenance of effort (MOE).

- ODDS worked with the Centers for Medicare and Medicaid Services (CMS) to develop transition strategy.
- CMS gave approval to move forward in January 2023.
- Target implementation: January 2024.
- Due to ARPA MOE, ODDS must implement new framework while maintaining base historical levels until MOE is lifted March 31, 2025.
- Cost impact ≈\$10M General Fund (\$5M ARPA, \$5M GF).

## Benefits

- Smoother transition for individuals with time to plan and communicate changes.
- Removes duplicative assessments for most individuals; reduces burden on CMEs.



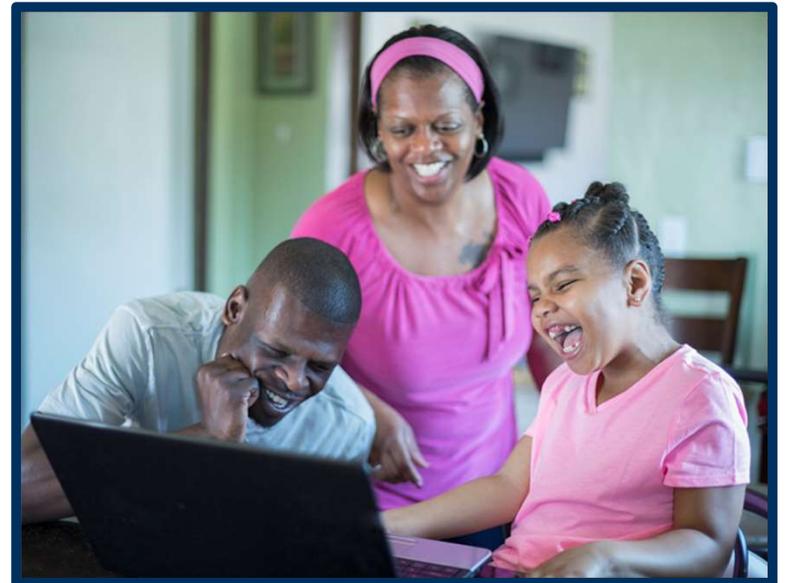
# Individual Support Plan (ISP)

---

**After an assessment identifies maximum number of hours, the person works with their team to develop an ISP, which helps people live the good life that they want.**

**ISPs have the following information about a person:**

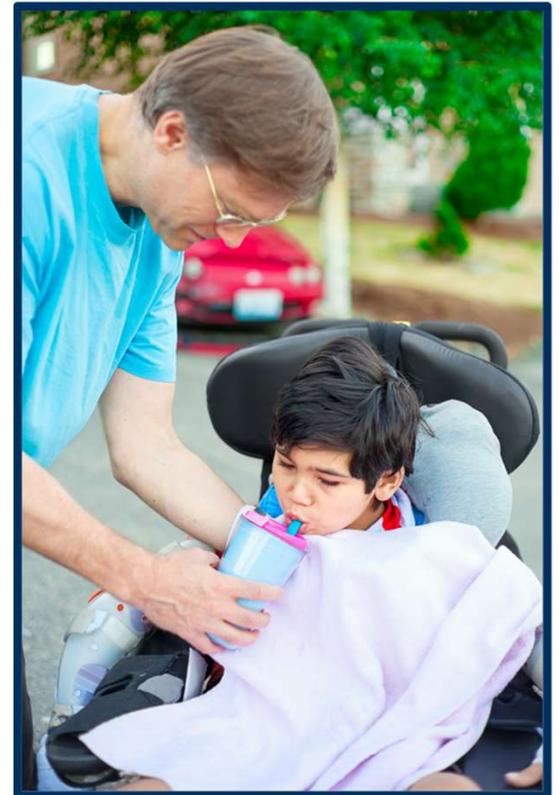
- What matters most to them.
- Who is important to them, relationships and community.
- Their culture, dreams, goals and interests.
- What their good life is; things they want to avoid.
- What they want to focus on this year.
- What kinds of help they need to do what they want.
- Whose help they want.
- When/how they want help with different things.
- How services are paid for: K Plan, waivers, other.



# Supports for those with highest needs

---

- 2:1 supports above what is identified on CNA
- Additional hours of attendant care
- Higher rates
- Private duty nursing (PDN) for those with nursing support needs.
- Providers with special qualifications.



# Exceptions process and due process

---

ODDS has a full exceptions team that reviews all service and rate exceptions requested above and beyond what is allowable per Oregon Administrative Rules.

- SC/PA identifies additional supports are needed.
- SC/PA submits a request for additional supports to ODDS along with documentation supporting the need.
- ODDS Exceptions Committee meets several times each week, reviews requests and responds. Actions taken:
  - Approves request.
  - Asks for additional information or documentation.
  - Denies request and issues a Notification of Planned Action along with hearing rights.

## Differences between children and adults

---

- Parents are their children's representatives.
- All children need support, guidance, and supervision.
- Available hours for paid supports increases with age.
- Community transportation is only available for driving-age youth and adults.
- Paid supports are 1:1 and must connect to a child's disability-related needs.



## ODDS services and schools

Federal regulations require that K Plan services, like ODDS-funded attendant care, do not supplant special education or related services provided under IDEA. 42 CFR § 441.525.

- ODDS services cannot replace school services or be provided during the school day.
- Support workers cannot provide services in schools, on school grounds or on school buses.
- They cannot provide school transportation.
- They cannot perform educational tasks, even at home.



## **ODDS actions during public health emergency (PHE): School closures**

---

**When schools first closed due to COVID-19, ODDS helped children and families adjust by allowing attendant care during distance learning activities to support ADL/IADL needs without exceptions.**

- Did not include educational supports.
- ODDS and ODE issued joint guidance in 2020.
- As schools reopened in 2021, ODDS rolled back these flexibilities.

**Currently, attendant care during distance learning activities for children are only available through exception.**

- These will end when PHE ends.
- Not for homeschooling or tutoring.
- Does not include educational supports.



## ODDS actions during PHE: Paid parent caregivers

---

During PHE, CMS approved temporary option for a limited group of children to mitigate exposure to COVID-19 from outside the home.

- ODDS made rule changes.
- Implemented for children with highest needs.
- Federal approval for this emergency option will end with PHE on **May 11, 2023**.
- About 440 children in Oregon currently receive paid care from their parents or guardians under this emergency exemption.



# ODDS actions during PHE: Paid parent caregivers

## Qualifications for paid parent caregiver option

- Child meets eligibility criteria for one of the CIIS waivers.
- Child's needs assessment identifies a minimum of 240 attendant care hours/month.
- This figure demonstrates a high level of support needs: at least 8 hours per day.
- About 1,080 children currently qualify.
- Parents/guardians must meet basic requirements, such as passing a background check and following all applicable Oregon rules.



# SB 91 & SB 646 comparison

	SB 91	SB 646
<b>Eligibility</b>	<ul style="list-style-type: none"> <li>Children with I/DD, or medically fragile, or medically involved eligibility who live at home <b>AND</b> are in "very high" service group due to medical or behavioral support needs</li> </ul>	<ul style="list-style-type: none"> <li>Children with I/DD eligibility who live at home</li> </ul>
<b>Medicaid authority</b>	<ul style="list-style-type: none"> <li>Waiver</li> </ul>	<ul style="list-style-type: none"> <li>K Plan</li> </ul>
<b>Provider type</b>	<ul style="list-style-type: none"> <li>DSP (agency employer)</li> <li>Legacy PSW</li> </ul>	<ul style="list-style-type: none"> <li>PSW or DSP</li> </ul>
<b>Provisions</b>	<ul style="list-style-type: none"> <li>60 hours/week cap per household</li> <li>Prohibits tasks not for primary benefit of client-child</li> <li>Prohibits services during school hours</li> <li>Prohibits simultaneous care of vulnerable adult or child under 10 years old</li> <li>Other agency requirements</li> </ul>	<ul style="list-style-type: none"> <li>Same requirements apply as all other in-home providers</li> </ul>
<b>Other requirements</b>	<ul style="list-style-type: none"> <li>Training for case managers, parents and children</li> <li>Process for children to object to parent provider</li> <li>Tracking and legislative reports</li> </ul>	<ul style="list-style-type: none"> <li>Support to children turning 18 about their right to choose their paid provider</li> </ul>

# Waiver or state plan approval process

---

1. Community partner engagement.
2. Tribal consultation (60 days for waiver; 90 days for state plan).
3. Public comment period (30 days; can be concurrent with Tribal consultation).
4. Aggregation of comments and written response (Up to 30 days).
5. Oregon Health Authority review and approval (about 3 weeks).
6. Submission to CMS.
7. CMS review (at least 90 days).
  - CMS can "stop the clock" at any point for additional review, which marks a new 90-day period.
  - If no approval is granted, the state must start the process over again, including Tribal consultation and public comments.
8. Waiver amendments cannot be retroactive. State plan changes may be retroactive.

# Comparison to other states

---

**Every state unique when it comes to:**

- Medicaid authorities.
- Eligible populations and levels of care.
- Services to children.
- Provider qualifications.

Early in the COVID-19 pandemic, many states allowed parents of minor children to become paid caregivers through a variety of temporary programs.

Many states are exploring permanent options.



## Comparison to other states

	California	Colorado
Level of care	Hospital, nursing facility, or ICF/IID	Hospital or nursing facility
Medicaid authority	Waiver	Waiver
Services	Broad array of services including nursing and attendant care if parent meets all qualifications	Health maintenance activities [such as medication administration, specialized feeding, positioning]
Summarized requirements	<p>No other willing or qualified providers or agencies, child lives in a remote or rural area, and attempts were made to find qualified providers</p> <p>Specific, authorized services only, ordered by child's physician</p> <p>Must have a designated representative to direct service planning</p>	<p>Employed by an agency</p> <p>Must have a designated representative to direct service planning</p>

## Closing remarks

---

As the Oregon Legislation considers permanent options for paid parent caregivers, it's important to:

- Consider how Oregon's system and authorities are a unique structure and how solutions will impact the existing system.
- Continue to innovate, building a strong foundation of supports that lay the avenues towards a sustainable system, equity, and community inclusion.

ODDS will continue to provide policy and program information to help inform the Oregon Legislature's consideration of a permanent solution.





Questions?

---