

A-Engrossed Senate Bill 104

Ordered by the Senate April 11
Including Senate Amendments dated April 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services, Mental Health and Recovery)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Department of Human Services to *[evaluate implementation of certification of]* **contract with one or more** agency with choice *[service]* **services** providers *[and to submit findings from evaluation to interim committees of Legislative Assembly related to health not later than September 15, 2024]* **and with one provider by July 1, 2024. Modifies definition of "agency with choice services." Specifies requirements for agency with choice services providers that contract with department. Deletes requirement that department adopt rules regarding qualifications and reimbursement rates for agency with choice services providers.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to agency with choice services; creating new provisions; amending section 1, chapter 91,
3 Oregon Laws 2022; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** Section 1, chapter 91, Oregon Laws 2022, is amended to read:

6 **Sec. 1.** (1) As used in this section:

7 (a) "Agency with choice services" means *[performing, on behalf of an individual, the following*
8 *functions as the employer of record for direct support professionals]* **support given to an individual**
9 **in self-directing the individual's services or in managing staff** who are providing in-home ser-
10 vices and supports to the individual, **using a person-centered approach to ensure that the in-**
11 **dividual is at the center of the decision-making process regarding what services are needed,**
12 **including by providing:**

13 *[(A) Coordinating the schedules and responsibilities of direct support professionals who are pro-*
14 *viding in-home services and supports to the individual;]*

15 *[(B) For each direct support professional providing in-home services and supports to the individual,*
16 *withholding, filing and paying income and employment-related taxes, including workers' compensation*
17 *premiums and unemployment taxes;]*

18 *[(C) Verifying the qualifications of each direct support professional; and]*

19 **(A) Training, coaching and other forms of support to the individual on:**

20 **(i) Self-direction; and**

21 **(ii) The roles and responsibilities of the individual and the agency with choice services**
22 **provider;**

23 **(B) Training, coaching and other forms of support to the individual in the overall man-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **agement of staff providing direct support services to the individual, including in the**
2 **recruitment, hiring, scheduling and training of staff, performance assessments of staff and**
3 **dismissal of staff; and**

4 *[(D)] (C) [Providing] Other administrative and employment-related supports.*

5 (b) “Individual” means a child or adult with an intellectual or developmental disability, **or the**
6 **representative of the child or adult**, who receives in-home services and supports through the De-
7 partment of Human Services.

8 (2) The department shall *[certify agencies]* **contract with one or more organizations** to deliver
9 agency with choice services as a community-based services option under ORS 427.007 (1)(d).

10 *[(3) The department shall adopt by rule:]*

11 *[(a) Minimum qualifications for agencies to be certified by the department to deliver agency with*
12 *choice services; and]*

13 *[(b) Reimbursement rates for the services.]*

14 *[(4) (3) [Minimum qualifications for agencies certified to deliver agency with choice services in-*
15 *clude, but are not limited] An organization contracting with the department under subsection*
16 **(2) of this section shall be expected, at a minimum, to:**

17 *[(a) The ability to provide support for individuals in directing the individual’s direct support pro-*
18 *fessional and the day-to-day services of the direct support professional;]*

19 *[(b) A commitment to recruit and retain a high quality and diverse workforce to provide agency*
20 *with choice services;]*

21 **(a) Maximize an individual’s self-direction and autonomy by supporting the individual to**
22 **direct the individual’s staff hired to provide direct support services to the individual and**
23 **manage the day-to-day services of the individual’s staff hired to provide direct support ser-**
24 **VICES to the individual;**

25 *[(c) (b) Have a commitment to work with a broad coalition of stakeholders in an effort to un-*
26 *derstand the changing needs of the workforce and of individuals’ needs, rights and preferences; and*

27 *[(d) (c) Have the ability to meet the state’s interest in preventing or mitigating disruptions to*
28 *individuals’ in-home services and supports.]; and]*

29 *[(e) The ability to implement an electronic visit verification system that complies with state and*
30 *federal requirements or, in the absence of an electronic visit verification system, to monitor a statis-*
31 *tically valid sample of each claim for reimbursement for the cost of services to the receipt of the services*
32 *by the individual.]*

33 *[(5) (4) The department may not [certify an agency] contract with an organization under*
34 **subsection (2) of this section** to provide agency with choice services if the owner of **or an exec-**
35 **utive officer of the organization** *[the agency]* has been convicted of Medicaid fraud in any state
36 within the 25-year period prior to *[the certification]* **entering into the contract.**

37 **SECTION 2. The Department of Human Services shall contract with an organization to**
38 **deliver agency with choice services under section 1, chapter 91, Oregon Laws 2022, no later**
39 **than July 1, 2024.**

40 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**
41 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
42 **on its passage.**