

Senate Bill 570

Sponsored by Senators GELSER BLOUIN, PATTERSON, MANNING JR, Representative SMITH G; Senator CAMPOS, Representative NELSON (Pre-session filed.)

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 **as introduced**.

Requires Department of Human Services to contract with up to two agencies providing agency with choice services. Specifies criteria for agencies that contract with department.

Allows consumers to use private pay home care program through Home Care Commission to access agency with choice services and other home care services.

A BILL FOR AN ACT

1
2 Relating to home care services; creating new provisions; and amending ORS 410.605.

3 Whereas quality long term in-home care services allow Oregon seniors, persons with disabilities
4 and their families the choice of remaining in their own homes and communities, including the choice
5 of whether to receive residential services, use licensed home care agencies or employ individual
6 providers; and

7 Whereas long term in-home care services are a less costly alternative to institutional care,
8 saving Oregon taxpayers significant amounts through lower reimbursement rates; and

9 Whereas thousands of Oregon seniors and persons with disabilities exercise their choice to live
10 in their own homes and receive needed assistance through in-home services; and

11 Whereas many Oregon seniors and persons with disabilities currently receive long term in-home
12 care services from individual providers hired directly by them under programs authorized through
13 the Medicaid state plan or Medicaid waiver authorities and similar state-funded in-home care pro-
14 grams; and

15 Whereas establishing a consumer-directed employer program will support the state's intent for
16 consumers to direct their own services, enhance the capacity of the home-based service system by
17 adding an entity that provides the administrative functions of an employer and supports consumers
18 to manage the services provided in their own homes, prevent or reduce unnecessary and costly
19 utilization of hospitals and institutions by taking a step toward integration of home care workers
20 into a coordinated delivery system, and support the development of new technology and inter-
21 ventions to enhance the skills of home care workers and services provided to consumers; and

22 Whereas the Legislative Assembly does not intend for the consumer-directed employer program
23 to replace the consumers' options to select an individual provider to provide in-home care from a
24 qualified home care agency or through the Home Care Commission; now, therefore,

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

26 **SECTION 1. (1) As used in this section:**

27 (a) **“Agency with choice services” has the meaning given that term in section 1, chapter**
28 **91, Oregon Laws 2022.**

29 (b) **“Consumer-directed employer” means an agency that contracts with the Department**
30 **of Human Services to provide agency with choice services.**

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 (c) "Individual" means an individual receiving home care services.

2 (d) "Individual provider" means a provider of home care services directly who may be
3 employed by an individual, the state, a home care agency or a consumer-directed employer.

4 (2) The Department of Human Services shall contract with up to two consumer-directed
5 employers to provide agency with choice services under section 1, chapter 91, Oregon Laws
6 2022. In addition to meeting the requirements in section 1 (3) and (4), chapter 91, Oregon
7 Laws 2022, a consumer directed employer must demonstrate:

8 (a) A strong commitment to consumer choice, self-direction and maximizing consumer
9 autonomy and control over daily decisions.

10 (b) The ability to provide maximum support to each individual and to focus on directing
11 services for the individual through a model that recognizes that the provision of employer
12 responsibility and human resource administrative support is integral to successful self-
13 directed home care programs.

14 (c) A commitment to engage and work closely with individuals in designing, implementing
15 and continuing operations, through an advisory board, focus group or other methods as ap-
16 proved by the department.

17 (d) A focus on workforce retention and creating incentives for qualified and trained in-
18 dividual providers to meet the growing needs of this state's long-term care consumers.

19 (e) The ability to deliver high-quality training, health care and retirement benefits, which
20 may include participation in existing Taft-Hartley trusts that provide those benefits.

21 (f) The ability to comply with the terms and conditions of employment of individual pro-
22 viders.

23 (g) A commitment to involving its home care workforce in decision making, including
24 decisions on quality improvement, training, technology used and workplace safety.

25 (h) A vision for including and enhancing individual providers as valued members of an
26 individual's care team, as desired and authorized by the individual and reflected in the
27 individual's plan of care.

28 (i) The ability to build and adapt technology tools that can enhance efficiency and provide
29 better quality of services.

30 (j) A commitment to use the home care registry for matching, training verification and
31 background check status.

32 (k) A commitment to minimizing the impact of the loss of pay and work hours for indi-
33 vidual providers resulting from client hospitalizations and death.

34 (L) That the consumer-directed employer has mechanisms in place to ensure the indi-
35 vidual provider's participation in the development of work processes and the establishment
36 of performance standards.

37 (3) A consumer-directed employer contracting with the department under subsection (2)
38 of this section must recruit and retain qualified individual providers dedicated to meeting the
39 demand for coverage of planned and unplanned individual provider absences, respite care for
40 paid and unpaid caregivers and other temporary coverage needs of an individual.

41 (4) A consumer-directed employer must provide individual providers employed by the
42 consumer-directed employer with access to a supervisor and a licensed medical professional
43 while on duty.

44 (5) Any qualified and willing person may apply for employment as an individual provider
45 with a consumer-directed employer.

1 **(6) Individual providers employed by a consumer-directed employer are required to have**
2 **an active home care worker identification number issued by the department.**

3 **(7) This section does not limit or restrict the use of the program established in ORS**
4 **410.605 to enable private individuals to purchase home care services from the Home Care**
5 **Commission through the home care registry.**

6 **SECTION 2.** ORS 410.605 is amended to read:

7 410.605. (1) This section establishes a program, administered by the Home Care Commission, to
8 enable private individuals to purchase home care services from the commission through the home
9 care registry. The commission shall administer the program in a manner that:

10 (a) Builds and strengthens the home care workforce that provides home care services to medical
11 assistance recipients by offering home care workers the opportunity to obtain additional work from
12 private payers and by attracting additional home care workers to the home care registry;

13 (b) Provides an opportunity for the rapidly growing population of elderly individuals and indi-
14 viduals with disabilities in this state, who are not eligible for medical assistance, to obtain high
15 quality and affordable home care services from qualified, committed, experienced and well-trained
16 home care workers;

17 (c) Protects medical assistance recipients' access to and receipt of home care services; and

18 (d) Ensures that this state incurs no liability for the costs of home care services purchased by
19 private payers through the program, or for any other associated program costs, that exceed the
20 amount of revenue generated by the payments described in subsection (5) of this section.

21 (2) The commission shall establish by rule the types and scope of home care services or other
22 services that may be offered through the program, **including but not limited to services from**
23 **home care workers, personal support workers, respite care providers, on-call providers and**
24 **providers of agency with choice services.** The commission shall make available to consumers and
25 potential consumers of home care services, information about the scope of the services offered
26 through the program, about the long term care services and support that are not available through
27 the program and about other community resources that are available to individuals seeking long
28 term care services and support.

29 (3) The commission shall adopt standards for home care services offered through the program.
30 The standards, to the greatest extent practicable, shall be compatible with the standards for home
31 care services reimbursed as medical assistance and by in-home care agencies licensed under ORS
32 443.315.

33 (4) Private payers purchasing home care services through the program must complete a standard
34 assessment instrument prescribed by the commission that evaluates the capacity and willingness of
35 the individual receiving services, or a person selected by the individual to act on the individual's
36 behalf, to effectively manage and direct the home care services. A private payer and a private pay
37 home care worker must enter into a written service plan based on the assessment instrument that
38 is consistent with the private pay home care worker's capabilities, training and experience. The
39 standard assessment instrument must be completed prior to the commencement of services.

40 (5) The commission shall establish payment rates for home care services purchased by private
41 payers through the home care registry and shall publish the rates online, showing the projected cost
42 of each component included in calculating the payment rates. The commission shall establish the
43 rates at levels expected to generate total revenue sufficient to reimburse up to 107 percent of the
44 costs associated with the program including, but not limited to, the costs for:

45 (a) Screening, registering and training private pay home care workers and maintaining and ex-

- 1 panding the home care registry;
- 2 (b) Hiring additional staff;
- 3 (c) Providing referrals of private pay home care workers to private payers;
- 4 (d) Paying the private pay home care workers' wages;
- 5 (e) Paying payroll taxes;
- 6 (f) Paying for health insurance and employee benefits, either directly or through a trust account;
- 7 (g) Processing payments from private payers and payments to private pay home care workers;
- 8 (h) Paying workers' compensation and unemployment insurance;
- 9 (i) Publicizing the availability of the home care registry; and
- 10 (j) Other activities undertaken to ensure the quality of private pay home care workers, the ad-
- 11 equate provision of home care services and other administrative expenses associated with the pro-
- 12 gram.
- 13 (6) A private payer who purchases home care services through the program shall pay the com-
- 14 mission in advance for the services.
- 15 (7) The commission shall establish the wage rates, pay the wages and provide for employee
- 16 benefits for private pay home care workers. A private pay home care worker may not accept any
- 17 additional compensation for hours of work that were compensated by the program.
- 18 (8) Private pay home care workers are subject to the same requirements as home care workers
- 19 providing services reimbursed as medical assistance with respect to:
- 20 (a) Home care worker qualifications;
- 21 (b) Application and enrollment in the home care registry; and
- 22 (c) Suspension or termination of enrollment in the registry.
- 23 (9) The commission may specify requirements and procedures, in addition to those described in
- 24 subsection (8) of this section, for private pay home care workers.
- 25 (10) The commission, with the assistance of the Department of Human Services, may conduct
- 26 periodic evaluations of private pay home care workers, or take other measures to determine whether
- 27 the private pay home care workers continue to meet provider enrollment requirements or for other
- 28 appropriate purposes.
- 29 (11)(a) If revenue generated by the payments described in subsection (5) of this section is insuf-
- 30 ficient to pay the costs of home care services purchased by private payers through the program, and
- 31 other costs associated with administering the program, the commission may modify the payment
- 32 rates described in subsection (5) of this section as necessary to generate sufficient revenue to pay
- 33 the costs.
- 34 (b) If the commission determines that modifying the payment rates will not generate sufficient
- 35 revenue to pay the costs of the program, the commission may suspend the program following 30 days
- 36 advance written notice to private payers and home care workers participating in the program.
- 37 (c) If the commission suspends the program under paragraph (b) of this subsection, the commis-
- 38 sion shall report to the Legislative Assembly in the manner provided in ORS 192.245, no later than
- 39 30 days after the suspension begins:
- 40 (A) The reasons for the suspension;
- 41 (B) Any costs incurred by this state that exceed the revenue generated by the payments de-
- 42 scribed in subsection (5) of this section; and
- 43 (C) Any additional costs, during the remainder of the biennium in which the suspension occurs,
- 44 that are anticipated to exceed the revenue generated by the payments described in subsection (5)
- 45 of this section.

