

Senate Bill 646

Sponsored by Senator KNOPP; Senators ANDERSON, FINDLEY, GIROD, Representative GOODWIN (Presession 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 Oregon Health Authority to request federal approval to allow parent or legal guardian to be paid to act as personal support worker or direct support professional for minor child who has intellectual or developmental disability. Requires Department of Human Services to disregard income of parent in determining child's eligibility for developmental disability services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to developmental disability services; and declaring an emergency.

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

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

5 (a) "Activities of daily living services" includes providing assistance with:

6 (A) Basic personal hygiene, such as bathing, hair care, grooming, shaving, nail care, foot
7 care, dressing, skin care or oral hygiene;

8 (B) Toileting, bowel and bladder care, such as getting to and from the bathroom, on and
9 off the toilet, commode, bed pan, urinal or other assistive device used for toileting, changing
10 incontinence supplies, following a toileting schedule, managing menses, cleaning or adjusting
11 clothing related to toileting, emptying a catheter, drainage bag or assistive device, ostomy
12 care or bowel care;

13 (C) Mobility, transfers and repositioning, such as assisting with ambulation or transfers
14 with or without assistive devices, turning an individual or adjusting padding for physical
15 comfort or pressure relief or encouraging or assisting with range of motion exercises;

16 (D) Eating, such as assisting with adequate fluid intake or adequate nutrition, assisting
17 with food intake, monitoring to prevent choking or aspiration, assisting with adaptive
18 utensils, cutting food or placing food, dishes and utensils within reach for eating; and

19 (E) Cognitive functions or emotional support for an individual with an intellectual or
20 developmental disability, such as helping the individual cope with change and assisting the
21 individual with decision-making, reassurance, orientation and memory.

22 (b) "Attendant care services" means direct support provided to an individual in the home
23 or in the community that is necessary to permit the individual to live independently in a
24 community-based setting.

25 (c) "Developmental disability services" has the meaning given that term in ORS 427.101.

26 (d) "Direct support" means activities of daily living services and instrumental activities
27 of daily living services.

28 (e) "Direct support professional" means an individual who is qualified to provide attend-
29 ant care services to an individual in the individual's home or community.

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 (f) “Instrumental activities of daily living services” includes:

2 (A) Light housekeeping tasks necessary to maintain an individual in a healthy and safe
 3 environment, such as cleaning surfaces and floors, making the bed, cleaning dishes, taking
 4 out the garbage, dusting and doing the laundry;

5 (B) Going grocery shopping and doing other shopping necessary to carry out activities
 6 of daily living services and other instrumental activities of daily living services;

7 (C) Meal preparation and managing special diets;

8 (D) Supporting an individual to participate in the community, such as assisting the indi-
 9 vidual in acquiring, retaining and improving skills needed to make use of available commu-
 10 nity resources, facilities or businesses and improving self-awareness and self-control; and

11 (E) Supporting an individual in communicating, such as assisting the individual in ac-
 12 quiring, retaining and improving expressive and receptive skills in verbal and nonverbal lan-
 13 guage, social responsiveness, social amenities and interpersonal skills and the functional
 14 application of acquired reading and writing skills.

15 (g) “Parent” means a parent of a child by blood, marriage or adoption whose parental
 16 rights have not been terminated under ORS 419B.500 to 419B.524.

17 (h) “Personal support worker” has the meaning given that term in ORS 410.600.

18 (2) The Department of Human Services shall allow a minor child or the representative
 19 of a minor child receiving developmental disability services to select the child’s parent or
 20 legal guardian to serve as the child’s personal support worker or direct support professional
 21 if the parent or legal guardian completes the training requirements, background check and
 22 any other requirements for personal support workers or direct support professionals as
 23 prescribed by the department by rule.

24 (3) The department shall ensure that a parent or legal guardian who is paid as a personal
 25 support worker or direct support professional under subsection (2) of this section maintains
 26 the ability to engage in the evaluation process and in the development of a service plan for
 27 the child.

28 (4) The department may not impose requirements or limits on attendant care services
 29 hours provided by parents or legal guardians who are being paid as personal support workers
 30 or direct support professionals under subsection (2) of this section that differ from the re-
 31 quirements and limits imposed on personal support workers or direct support professionals
 32 who are not the parents or legal guardians of the child receiving the attendant care services.

33 (5) The department shall establish and maintain a process by which a minor child re-
 34 ceiving attendant care services from a parent or legal guardian under subsection (2) of this
 35 section, upon attaining 18 years of age, is given the opportunity to develop and given support
 36 in developing an individual support plan that includes selecting an individual to serve as the
 37 child’s personal support worker or direct support professional.

38 **SECTION 2.** (1) As used in this section, “Community First Choice option” means a state
 39 plan amendment approved by the Centers for Medicare and Medicaid Services under 42
 40 U.S.C. 1396n(k).

41 (2) The Department of Human Services may not consider the income of a parent of a
 42 child with an intellectual or developmental disability in determining the child’s eligibility for
 43 services under Oregon’s Community First Choice option.

44 **SECTION 3.** (1) No later than July 15, 2023, or the effective date of this 2023 Act,
 45 whichever is later, the Oregon Health Authority shall seek any waivers of federal require-

1 ments or federal approvals of state plan amendments under the Community First Choice
 2 option, as defined in section 2 of this 2023 Act, that are necessary to carry out sections 1
 3 and 2 of this 2023 Act.

4 (2) The authority shall notify the Legislative Counsel immediately upon receipt of the
 5 approval or denial of approval of each request under subsection (1) of this section.

6 (3) For the period before federal approvals or denials of approvals are received on re-
 7 quests made under subsection (1) of this section, the authority shall request from the Cen-
 8 ters for Medicare and Medicaid Services approval to continue the flexibility, provided by the
 9 Centers for Medicare and Medicaid Services under the Section 1135 Waiver Flexibilities ap-
 10 proved on December 9, 2020, to allow a legal representative of a minor child to serve as a
 11 personal support worker or a direct support professional for the child.

12 SECTION 4. (1) Section 1 of this 2023 Act becomes operative upon receipt of federal ap-
 13 proval requested under section 3 of this 2023 Act to carry out the provisions of section 1 of
 14 this 2023 Act.

15 (2) Section 2 of this 2023 Act becomes operative upon receipt of federal approval re-
 16 quested under section 3 of this 2023 Act to carry out the provisions of section 2 of this 2023
 17 Act.

18 SECTION 5. (1) Section 1 of this 2023 Act is repealed upon the denial of federal approval
 19 requested under section 3 of this 2023 Act to carry out the provisions of section 1 of this 2023
 20 Act.

21 (2) Section 2 of this 2023 Act is repealed upon the denial of federal approval requested
 22 under section 3 of this 2023 Act to carry out the provisions of section 2 of this 2023 Act.

23 (3) Section 3 of this 2023 Act is repealed on January 2, 2025.

24 SECTION 6. This 2023 Act being necessary for the immediate preservation of the public
 25 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
 26 on its passage.