

## SB 538 STAFF MEASURE SUMMARY

### Senate Committee On Health Care

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**Prepared By:** Daniel Dietz, LPRO Analyst

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 2/4

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#### WHAT THE MEASURE DOES:

For children with very high medical and behavioral health needs, the measure prohibits the Oregon Department of Human Services (ODHS) from restricting the number of care attendant service hours provided by a parent caregiver except by the choice of the parent provider, the agency that employs the parent provider, any applicable collective bargaining agreement, or the client child.

Detailed Summary:

Defines roles for the non-caregiver parent or an alternative legal representative assigned by the provider parent only for the purpose of developing and implementing a child's support plan. Allows a nonparent caregiver to be paid using funding available through the state's Community First Choice Option under 42 U.S.C. 1396n(k). Prohibits the Oregon Department of Human Services from using funds appropriated for the purpose of compensating parent providers for other purposes, except for staffing the program.

Fiscal impact: Not yet issued

Revenue impact: Not yet issued

#### ISSUES DISCUSSED:

##### EFFECT OF AMENDMENT:

No amendment.

##### BACKGROUND:

[Senate Bill 91](#) (2023) directed the Oregon Department of Human Services (ODHS) to compensate parents for providing attendant care services to minor children who have very high medical or behavioral health needs. "Very high" means an extraordinary need for support due to a child's behavioral or medical condition as indicated by a federally approved functional needs assessment ([ORS 427.191](#)). The measure extended flexibility for paid caregiving initially granted by the Centers for Medicare and Medicaid Services (CMS) through during the COVID-19 public health emergency ([link](#) to Lund Report article).

To implement Senate Bill 91, ODHS submitted a Children's Extraordinary Needs Waiver to CMS, pursuant to 42 USC §1915(c), on January 18, 2024 ([link](#) to ODHS waivers and waiver applications). The Community First Choice Option is a state plan option that allows states to provide home and community-based attendant services and supports to eligible Medicaid enrollees ([link](#) to CMS).

According to the National Academy for State Health Policy (NASHP), caregivers for children with high needs provide complex care tasks, including technical medical equipment (e.g., adjusting feeding tubes), support with occupational therapy, and symptom monitoring and management ([link](#) to NASHP brief (2021)). Caregivers themselves are more likely to experience health challenges and financial hardship ([link](#) to AARP report, "Caregivers of Children" (2009)). Caregivers said that financial support for the caregiving they provide is their most crucial need (*ibid*).