

## **SB 136 -1, -2 STAFF MEASURE SUMMARY**

### **Senate Committee On Human Services**

---

**Prepared By:** Matthew Perreault, LPRO Analyst

**Meeting Dates:** 2/11, 4/3, 4/8

---

#### **WHAT THE MEASURE DOES:**

The measure authorizes the Department of Human Services (ODHS) to revoke the license, certificate, or endorsement granted to providers of community-based services for individuals with intellectual or developmental disabilities (IDD) deemed to be unqualified.

#### Detailed Summary:

- Authorizes ODHS to revoke the license, certificate, or endorsement granted to a provider of community-based services for individuals with IDD if the department deems the provider to be unqualified.
- Specifies the violations and minimum ineligibility periods for the department to deem a provider to be unqualified, including:
  - one year if a manager is placed on the U.S. Department of Health and Human Services Inspector General's excluded provider list;
  - one year if a provider denies necessary access to the department or a community developmental disabilities program;
  - two years if a provider interferes with or manipulates records;
  - two years if a provider has committed more than three serious health or safety violations in 18 months; and
  - permanently if a provider or a member of its management or ownership engages in or has engaged in fraud, financial mismanagement, or previously has lost or surrendered its license, certificate, or endorsement for such causes.
- Authorizes the department to deem a provider unqualified for any length of time if a provider places the health, safety, rights, or welfare of individuals at risk.
- Directs the department to adopt rules prescribing ineligibility periods for violations related to:
  - repeated rights violations;
  - failure to make mandatory abuse reports;
  - repeated substantiated abuse allegations;
  - failure to complete corrective action plans; and
  - repeated failure to maintain necessary staffing levels, provide access to care, or document and report incidents as required by law.

*REVENUE: No revenue impact*

*FISCAL: Fiscal impact issued*

#### **ISSUES DISCUSSED:**

- Requirements for providers under the Community First Choice option
- Regulatory authority of the department to enforce requirements
- Mandated exclusion periods
- Effect of federal excluded provider list
- Providers facing criminal investigations

#### **EFFECT OF AMENDMENT:**

-1 The amendment replaces the measure. The amendment requires the Department of Human Services (ODHS) to revoke the license, certificate, or endorsement of a provider of community-based services for individuals with

## SB 136 -1, -2 STAFF MEASURE SUMMARY

intellectual or developmental disabilities (IDD) under certain circumstances. The amendment further authorizes ODHS to revoke, suspend, or impose conditions on the license, certificate, or endorsement of a provider if it reasonably believes that there is a risk to health, safety, rights, or welfare of individuals served.

### Detailed Summary:

- Requires ODHS to revoke the license, certificate, or endorsement of a provider of community-based services for individuals with IDD in response to specified violations.
- Specifies the violations and minimum ineligibility periods, including:
  - one year if a manager is placed on the U.S. Department of Health and Human Services Inspector General's excluded provider list;
  - one year if a provider denies necessary access to the department or a community developmental disabilities program;
  - two years if a provider interferes with or manipulates records;
  - two years if a provider has committed more than three serious health or safety violations in 18 months; and
  - permanently if a provider or a member of its management or ownership engages in or has engaged in fraud, financial mismanagement, or previously has lost or surrendered its license, certificate, or endorsement for such causes.
- Authorizes ODHS to revoke, suspend, or impose conditions on the license, certificate, or endorsement of a provider if there is reasonable cause to believe that a provider's operations place the health, safety, rights, or welfare of individuals at risk.
- Directs the department to adopt rules prescribing ineligibility periods for violations related to:
  - repeated rights violations;
  - failure to make mandatory abuse reports;
  - repeated substantiated abuse allegations;
  - failure to complete corrective action plans; and
  - repeated failure to maintain necessary staffing levels, provide access to care, or document and report incidents as required by law.

*REVENUE: No revenue impact*

*FISCAL: Fiscal impact issued*

-2 The amendment replaces the measure. The amendment requires the Department of Human Services (ODHS) to revoke the license, certificate, or endorsement of certain providers of services or residential care for individuals with intellectual or developmental disabilities (IDD) under certain circumstances. The amendment further authorizes ODHS to revoke, suspend, or impose conditions on the license, certificate, or endorsement of a provider if it finds that there is a risk to health, safety, rights, or welfare of individuals served.

### Detailed Summary:

- Requires ODHS to revoke the license, certificate, or endorsement of an agency, adult foster home, or developmental disabilities child foster home that serves individuals with IDD in response to specified violations.
- Specifies the violations and minimum ineligibility periods, including:
  - one year if a responsible person denies ODHS access to a facility or an individual receiving services;
  - one year if a responsible person interferes with or manipulates records;
  - three years if a responsible person's persistent or egregious actions or failures resulted in or could result in death or serious harm.
- Authorizes ODHS to revoke, suspend, or impose conditions on the license, certificate, or endorsement of a provider if ODHS finds that a provider's operations place the health, safety, rights, or welfare of individuals at risk.

## SB 136 -1, -2 STAFF MEASURE SUMMARY

- Directs the department to adopt rules prescribing ineligibility periods for violations related to:
  - repeated rights violations;
  - failure to make mandatory abuse reports;
  - repeated substantiated abuse allegations;
  - failure to complete corrective action plans;
  - repeated failure to maintain necessary staffing levels,
  - repeated failure to provide access to care,
  - repeated failure to document and report incidents as required by law; and
  - repeated failure to adequately train and supervise employees.

*REVENUE: No revenue impact*

*FISCAL: May have fiscal impact, but no statement yet issued*

### **BACKGROUND:**

The Department of Human Services (ODHS), through the Office of Developmental Disability Services (ODDS), manages home and community-based services (HCBS) for individuals with intellectual and developmental disabilities (IDD) under [Medicaid's Community First Choice](#) option, or "K Plan," as provided by [sections 1915\(c\) and 1915\(k\) of the federal Social Security Act](#) and [section 2401 of the Affordable Care Act](#). Oregon is one of five states to provide these services to individuals with IDD under its state Medicaid plan. Under the [K Plan](#), individuals with IDD whose needs would otherwise qualify them for an institutional level of care are instead able to receive services from local providers in their homes and communities. Depending on the services provided, providers must either be licensed, endorsed, or certified by ODHS or the Oregon Health Authority in order to provide HCBS under the state Medicaid plan. Providers of HCBS for individuals with IDD include adult foster care, group homes for adults and children, adult day centers, and in-home care providers, which are regulated by ODHS under [OAR chapter 411](#).

The Inspector General of the U.S. Department of Health and Human Services is [authorized](#) by [sections 1128 and 1156](#) of the Social Security Act to temporarily or permanently exclude certain individuals or entities from participating in federally funded health programs, which applies to all programs funded through Medicaid. Generally, this applies to individuals who have been convicted of certain crimes or committed other offenses relating to abuse, fraud, or making false statements. The Inspector General maintains a [List of Excluded Individuals/Entities](#) to inform the public about exclusion decisions.