

To: Chair Patterson, Vice Chair Hayden, members of the Senate Committee on Health Care
From: Bridget Budbill, Legislative Advocate at the Oregon Law Center
Re: Senate Bill 296 – Recommendations from the Task Force on Hospital Discharge Challenges
Date: February 11, 2025

Dear Chair Patterson, Vice Chair Hayden, and members of the Senate Committee on Health Care:

The Oregon Law Center (OLC) is a legal aid organization providing free, civil legal services to Oregonians all across our state. Nearly all of our clients receive health care through the Oregon’s Medicaid Program, the Oregon Health Plan (OHP), and many of our clients are eligible for, or currently receiving, Medicaid-funded long-term services and supports (LTSS).

We ask for your support of Senate Bill (SB) 296, in its entirety, which covers key recommendations from the Task Force on Hospital Discharge Challenges’ 2024 final report.¹ The report is an impressively comprehensive look at Oregon’s hospital discharge challenges, and we are grateful to the task force members and staff for their time in illustrating this multi-faceted problem set. OLC’s client communities include individuals who have challenges in discharging from hospital settings to safe, appropriate care settings. Among the myriad good ideas in SB 296, there are several key directives, if pursued and funded, that would be most impactful to our client communities, highlighted as follows.

SB 296, Section 2: Improving LTSS processes and exploring presumptive eligibility options

- **Improving LTSS processes by creating dedicated, multi-agency teams for complex cases**

OLC clients encounter challenges in accessing LTSS due to delays in completing assessments (financial and functional) required to determine LTSS eligibility. Functional assessments² (questions about an applicant’s health conditions and needs) are typically taking several weeks to several months to fully complete. SB 296’s directive that the Oregon Department of Human Services (DHS) and Oregon Health Authority (OHA) explore creation of dedicated teams to work on complex LTSS cases is especially compelling. Dedicated teams with LTSS eligibility expertise from DHS, OHA, and area agencies on aging could be deployed to assist with particularly complex determinations. We also know DHS and OHA are working on pieces of this puzzle already, and we are grateful for that ongoing work. We see SB 296’s provisions as expanding upon it.

¹ Oregon State Legislature, “Recommendations of the Joint Task Force on Hospital Discharge Challenges,” (adopted November 12, 2024), <https://olis.oregonlegislature.gov/liz/202311/Downloads/CommitteeMeetingDocument/286706>.

² See *generally* Medicaid and CHIP Payment and Access Commission, “Report to Congress on Medicaid and CHIP,” Chapter 4 (Functional Assessments for Long-Term Services and Supports), page 68 (2016), <https://www.macpac.gov/wp-content/uploads/2016/06/June-2016-Report-to-Congress-on-Medicaid-and-CHIP.pdf>.

- **Exploring presumptive eligibility for short-term, temporary LTSS while full eligibility determinations are pending**

We support exploration of options for providing presumptive eligibility for short-term, temporary LTSS to clients who appear to qualify for LTSS before a full eligibility determination is complete. We also request that protections be considered so that any clients who are initially presumptively eligible but are later determined to be ineligible are not saddled with ruinous overpayment liability they cannot afford. We also understand that providers have similar concerns and encourage consideration of how we can balance and manage the benefits of presumptive eligibility within LTSS with any financial risks that could arise.

SB 296, Section 3: Exploration of waiving or streamlining asset testing for eligibility determinations in Medicaid LTSS, including allowances for self-attestation of eligibility

- **Exploration of waiving asset tests**

SB 296's Section 3 requires exploration of options for waiver or streamlining of asset testing for eligibility determinations in LTSS. Doing away with asset testing for LTSS would be a momentous step towards ending the reality that LTSS's resource limits require individuals seeking this care to first be on the brink of financial instability to qualify. Asset resource limits for LTSS eligibility are tied to Supplemental Security Income resources limits and are set at \$2,000 per individual and \$3,000 per couple, levels that *have not changed* since 1989.³ These limits require those needing LTSS to be lower- and lower-resourced to qualify every year.⁴ It also penalizes low-income people for trying to save money for emergencies.

Rather, Oregon could explore relying on income on the Federal Poverty Level index for eligibility, instead. California, for example, has done away with its asset test for LTSS eligibility.⁵ In 2022, Medi-Cal, California's Medicaid program, implemented a two-phase elimination of its asset testing for LTSS eligibility (as well as other programs).⁶ The first phase began by dramatically increasing the asset limit in the first year of implementation, followed by a full removal of asset testing for eligibility in the second

³ Center on Budget and Policy Priorities, "The Case for Updating SSI Asset Limits: Raising or Eliminating Limits Would Reduce Administrative Burden Without Dramatically Increasing Enrollment," September 20, 2023.

<https://www.cbpp.org/sites/default/files/6-26-23socsec.pdf>.

⁴ Under existing resource limits, a primary residence and car are not counted as assets, but bank accounts, life insurance, and retirement plans, among other things, are. *Id.* The Community Spouse Resource Allowance allows a non-LTSS applicant spouse to retain up to 50 percent of a couple's assets, with a maximum. See Oregon Department of Human Services, "Combined Standards – Long Term Care Standards (Maximum CSRA)" page 9 (January 2025)

<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/de5530.pdf#page=10>.

⁵ California Legislative Information, "Assembly Bill 133 Health (2021-2022) – Today's Law As Amended,"

https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB133&showamends=false.

⁶ California Department of Health Care Services, "Asset Elimination for Non-MAGI Medi-Cal: Eligibility and Enrollment Plan," February 13, 2023. <https://www.dhcs.ca.gov/services/medi-cal/eligibility/Documents/Eligibility-and-Enrollment-Plan-Asset-Test-Changes-for-Non-MAGI-MC.pdf>.



year. While Oregon studies waiving asset tests, it could also study what it would take to increase asset limits within federal requirements.

Here in Oregon, OLC sees low-income people who need LTSS not qualifying because they have assets above the \$2,000 limit. To qualify for LTSS now, they must spend down assets to below the \$2,000 mark. This can happen from privately paying for necessary long-term care that they cannot afford for very long. Because DHS does not authorize a functional assessment until a person first *financially* qualifies for LTSS, a person who becomes financially eligible for LTSS (after spending down assets) must continue to privately pay for their existing long-term care setting while they await a functional assessment to be done.

This leaves Oregonians who need LTSS in positions of being potentially evicted for non-payment at their private-pay long-term care homes while they wait for completion of functional assessments. Removing an asset limit could greatly reduce this problem. Without an asset limit, a person's LTSS financial eligibility assessment could be streamlined to being much simpler to verify, much less likely to result in errors, and much less administratively burdensome for all parties involved.

- **Exploring expansion of self-attestation of eligibility for Medicaid LTSS**

OLC supports exploration of self-attestation of LTSS financial eligibility to the greatest extent possible while LTSS asset limits still exist, as well as allowing family and community support networks to assist.

SB 296, Section 5: Expanding medical respite around the state

Expansion of the availability of, and access to, medical respite in all corners of Oregon would fill a hole in step-down services that are particularly important to OLC clients who discharge to homelessness while recovering from physical, behavioral, and/or psychiatric health conditions. The opportunity to create more short-term, post-hospitalization housing with wraparound services all around the state would be a literal lifeline to people with an abundance of needs and dearth of personal resources. Digging in to how our systems can coordinate, fund, and support medical respite expansion could change what's possible for people who are discharging from hospitals to the streets, when they could instead discharge to short-term recovery housing in which they continue to stabilize and recover fully.

Thank you for your consideration of these and other valuable proposals in SB 296.

Sincerely,

Bridget Budbill

The Oregon Law Center's mission is to achieve justice for low-income communities in Oregon by providing a full range of the highest quality civil legal services.