SEIU Local 503 Public Comment on Rate & Wage Study Recommendations from Burns & Associates

October 28, 2024

Executive Summary

The Rate & Wage Study budget note directed the Department of Human Services (DHS) to produce a thorough picture of current Medicaid reimbursement rates and wages in home and community-based services (HCBS) and recommend ways to *"standardize the compensation of direct care workers across programs and service delivery models."*[1] Before convening any HCBS stakeholders, DHS hired the healthcare consulting firm Burns & Associates to fulfill the budget note's mandates.

The findings and recommendations released by Burns & Associates do not prepare the state to create accurate and comprehensive reimbursement rates for in-home care services. They will not lead to the standardization of HCBS direct care worker compensation. Moreover, DHS mismanaged the budget note process, missing deadlines, providing incomplete and vague information, and omitting opportunities for advisory group members to actually advise the department.

The Legislature should reject the Rate & Wage Study findings and not adopt its flawed, dangerous, and costly recommendations for these reasons:

1. The Study's recommended rates would pour hundreds of millions of additional Medicaid dollars into large, for-profit ODDS in-home care agencies whose underregulated, out-of-control growth threatens the sustainability of the Personal Support Worker program, small and nonprofit providers, and the stability of the direct care workforce across all HCBS. **In effect, the Study recommends a massive, for-profit privatization of HCBS funded by the State at the expense of its own workers.**
2. Critically, the Study fails to include any discussion of company profits or how current reimbursements are spent. Given that profit margins exceed 20% at the largest Standard Model agencies, **excluding profit data is misleading**.
3. The Study's cost and rate estimates depend on small, nonrepresentative provider samples and severely limited analyses of provider financial information.

[1] Oregon State Legislature 2023-25 Budget Highlights, p. 80.
https://www.oregonlegislature.gov/lfo/Documents/2023-25%20Budget%20Highlights.pdf

4. The Study does not prepare DHS to comply with the impending federal HCBS Access Rule.
5. The Study fails to examine how HCBS rates, wages, and labor patterns have impacted each other and changed over time.
6. The Study does not offer a usable stakeholder framework for present or future rate-setting.

The Legislature must listen to the voices of service recipients and the direct care workers who actually deliver services. SEIU urgently recommends the State and the Legislature to:

- Fix the investment imbalance between the agency and self-directed service models.
- Account for company profits in HCBS rate models. **Any rate-setting that fails to include profits when company data show that profit margins are greater than 20% at the largest agencies will produce misleading recommendations.**
- Implement a direct care spending requirement and comply with the HCBS Access Rule.
- Require robust financial transparency from agencies.
- Form a Direct Care Workforce Standards Board.
- Improve the accessibility of the final report.

Detailed Responses

1. **The Study's recommended rates would pour hundreds of millions of additional Medicaid dollars into large, for-profit ODDS in-home care agencies whose underregulated, out-of-control growth threatens the sustainability of the Personal Support Worker program, small and nonprofit providers, and the stability of Oregon's HCBS workforce.**

Medicaid payments to in-home care agencies skyrocketed when ODDS introduced the Standard Model rate in July 2022, the result of another rate-setting process managed by Burns & Associates. From 2021 to 2022, the volume of payments to agencies expanded from $287 million to $602 million (110%).[2] Payments totaled nearly $600 million again in 2023.[3]

Where did these Medicaid dollars go and how were they spent? Neither DHS nor Burns & Associates analyzed this. Using independent financial audits of providers obtained via

[2] DHS payments to and billed hours for ODDS in-home care agencies, 2021-23. Obtained via public records requests.
[3] Ibid.

public records request from DHS, we estimated that the ten largest agencies by payments – an entirely for-profit group of providers that encompasses more than two thirds of Oregon's agency service hours – converted nearly $94 million Medicaid dollars into profits last year.[4] The average agency in this group pocketed 22 cents of every Medicaid dollar as profit while only 66 to 78 cents went to direct care.[5] Since the introduction of the Standard Model, the ten largest agencies went from capturing 57% of agency billed hours in 2022 to more than 71% in 2023, a startlingly rapid concentration of services.[6] The owners of the largest agency in the state, Rever Grand, who billed more than one in four of Oregon's total agency service hours in 2023, is currently charged with racketeering, tax evasion, and Medicaid fraud.[7]

Burns & Associates has chosen to double down on the bad math that has already spurred uncontrolled profit growth of a few large agencies, pushed smaller providers away from DD in-home care services, and reduced choices for service recipients. In the Study, Burns & Associates recommends increasing the Standard Model attendant care rate to $55.39 per hour, more than a 31% increase.[8] Furthermore, profits are not analyzed as part of any rate despite evidence from the largest agencies' audits that profits make up more than a fifth of their Medicaid payments. Assuming the same average profit margin, if the Legislature adopted the recommended Standard Model rate, the State would spend $123 million in Medicaid dollars to fund just profits – not direct care services – for the ten largest SMA companies.

Rather than evaluate the existing rate model to determine how providers can afford to pay higher than expected wages while still booking major profits, Burns & Associates incorrectly assumes that average wages in the rate model should be adjusted up when they should have looked to the other assumptions in the model to determine where companies are spending less and adjusting those figures down (for example, benefits). The Study then recommends replicating the same profit-driven behavior, privatization, market consolidation, and huge direct care compensation disparities on the APD side by increasing the in-home support rate to match the Standard Model rate of $55.39, more than a 45% increase for APD agencies.[9] If fully funded, these rates would accelerate the

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[4] Independent financial audits collected from ODDS in-home care agencies by ODDS, 2020-23. Obtained via public records requests.
[5] Ibid.
[6] DHS payments to and billed hours for ODDS in-home care agencies, 2021-23. Obtained via public records requests.
[7] "Rever Grand Founders Charged With Racketeering", Lucas Manfield, October 21, 2024. https://www.wweek.com/news/2024/10/21/rever-grand-founders-charged-with-racketeering/
[8] Proposed Rate Models ODDS Services_2024-10-07, page 1.
[9] Proposed Rate Models APD Services_2024-10-07, page 1.

liquidation of the entire State homecare workforce, not just the Personal Support Worker (PSW) program.

2. **The Study's cost and rate estimates depend on small, nonrepresentative provider samples and severely limited analyses of provider financial information.**

The centerpiece of the Study's cost and rate estimates is a voluntary, self-reported provider survey that does not require any supporting financial documentation from providers or representative response rates. Because of this, in many areas Burns & Associates simply replaced survey results with data sources that are dated, or not specific to HCBS or Oregon, resulting in a pick-and-choose, patchwork approach to rate-setting that has no consistent application, principles, or ability to easily determine how an assumption was built. When obviously inaccurate survey data were submitted, the responses were scrubbed from the results. Consequently, the survey data collected and analyzed by Burns & Associates consistently fail to furnish useful information for rate-setting because they are not representative of the service providers whose costs and operations they're intended to describe. As the consultants euphemistically acknowledge, the survey "participation rate prevented more detailed analysis."[10]

The survey's problems also extend beyond bad data. Critically, despite what is already evident in financial audits collected by DHS, none of the rate models account for what share of the Medicaid rate flows into profits. We believe that when independently audited and verified data indicate that as much as 22% of Medicaid payments are going purely to corporate profits at the largest Standard Model Agencies, it should not be ignored by rate models that purport to capture the full picture of how adequately rates fund services. This is 22% of Medicaid payments that are not funding direct care services or administrative spending, representing tens of millions of dollars – or more than a hundred million dollars if the recommended Standard Model rate is adopted – in a wasted investment of public money.

Based on the survey results that Burns & Associates shared with advisory group members, response rates vary widely by service type and what question was being asked. Below is a sample of the response rates:

ODDS Provider Response Rates by Service Type[11,12]

[10] "Wage and Rate Study Presentation of Initial Recommendations", October 7, 2024, slide 61.
[11] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 1.
[12] "Adult Foster Homes – Provider Survey Analysis", October 7, 2024, page 1.

Service	Respondents	Total Providers (FY23)	Response Rate
Attendant Care	47	324	14.5%[13]
Adult Foster Homes	34	1,366	2.5%

ODDS Provider Response Rates by Service Type and Metric

Service	Metrics	Respondents	Response Rate
Attendant Care	Direct Care Wages and Benefits[14]	31	9.6%
	Training[15]	17	5.2%
	Direct Care and Admin Expenses[16]	25	7.7%
Adult Foster Homes	Employee Direct Care Wages	12	0.01%

APD Provider Response Rates by Service Type[17,18]

Service	Respondents	Total Providers (FY23)[19]	Response Rate
In-Home Care Agency	9	77	11.7%
Community-Based Care Facility[20]	47	463	10.1%
Adult Foster Homes	55	1,175	4.7%

APD Provider Response Rates by Service Type and Metric

Service	Metrics	Respondents	Response Rate

[13] When weighting attendant care agency responses by claims revenue, the response rate actually decreased to 12%, indicating the survey did not pick up on the largest providers that provide most of the state's service hours.
[14] "ODDS Services – Provider Survey Analysis", October 7, 2024.
[15] Ibid.
[16] Ibid.
[17] "APD In-Home Services – Provider Survey Analysis", October 7, 2024, page 1.
[18] "Adult Foster Homes – Provider Survey Analysis", October 7, 2024, page 1.
[19] "Wage and Rate Study Presentation of Initial Recommendations", October 7, 2024, slides 24-28.
[20] Aggregates assisted living facilities, residential care facilities, and memory care facilities. Residential care facilities include specific needs contracts, but no facilities with Specific Needs Contracts responded. "APD Community-Based Care Services – Provider Survey Analysis", October 7, 2024, page 1.

In-Home Care Agency	Direct Care Wages, Training, and Expenses[21]	6	7.8%
	Benefits[22]	7	9.1%
Community-Based Care Facility	Full-time Caregiver Wages[23]	32	6.9%
	Caregiver Training[24]	10	2.2%
	Staffing Patterns[25]	40	8.6%
	Direct Care Expenses[26]	38	8.2%
Adult Foster Homes	Employee Direct Care Wages	26	2.2%

Provider response rates for these services rarely achieved 10%. In some cases, weighting the responses by Fiscal Year 2023 claims revenue somewhat improved the result, lifting the APD in-home care agency response rate to 28%, but in others weighting by revenue had no effect or actually decreased the response rate. The attendant care response rate falls to 12% when weighting by claims revenue, indicating the survey did not include the state's largest providers that provide most of the state's service hours. Response rates were so low for community-based care facilities that Burns & Associates could only use what was available in a much more representative 2022 survey conducted by Portland State University.

Burns & Associates will argue the survey is only one tool among others that they use to construct recommendations. However, in advisory group meetings and Study materials, they have been unable to articulate exactly how survey results are considered and measured against "other" forms of analysis, a vital missing piece of transparency given how often survey results directly contradicted the assumptions recommended in the rate models. To illustrate through examples:

- The proposed Standard Model Agency (SMA) rate assumes an annual average of 192 hours (24 days) of PTO, but the ODDS in-home services survey results showed only 12 days for the average PTO effective benefit level of a full-time worker. [27,28] When

[21] "APD In-Home Services – Provider Survey Analysis", October 7, 2024.
[22] Ibid.
[23] "APD Community-Based Care Services – Provider Survey Analysis", October 7, 2024.
[24] Ibid.
[25] Ibid.
[26] Ibid.
[27] Proposed Rate Models ODDS Services_2024-10-07, page C-1.
[28] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 8.

asked why they doubled the PTO assumption in their recommended rate model, Burns & Associates responded that they did not use the survey results. Instead, they used generic, nationwide Bureau of Labor Statistics (BLS) data on average leave policies.[29]

- The proposed SMA rate assumes 60 hours of training per year, but survey results only showed a "weighted average without outliers" of 30 training hours.[30,31] It's not clear where the doubling of the training assumption comes from.
- Survey results showed that only 47% of full-time SMA workers participated in their provider's health insurance, but the rate model assumes 73.1% employee participation.[32,33] In addition, survey respondents reported an effective health insurance benefit level of only $272 for full-time SMA workers; the rate funds an assumption of $691.63.[34] Again, Burns & Associates consulted generic private sector data to create the assumption, not information from HCBS providers by their unique service model in Oregon.[35]
- The effective level of retirement benefits was found to be 0.8% of wages for full-time SMA workers in the survey, but the rate model assumes 2.0%.[36,37] No supporting source is offered in the appendix.
- The overall benefits rate for I/DD in-home direct care workers in the survey was 15.7%, but the SMA rate assumption is 33.8%.[38,39] The SMA rate also assumes a benefits rate of 30.3% for supervisors, but nothing close to this benefits rate was captured for any class of worker in this part of the survey.[40]
- The administration and overhead cost share of revenue for I/DD in-home care providers was 12% in the survey (the weighted average rate) but assumed to be 15% in the SMA rate.[41,42]

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[29] Proposed Rate Models ODDS Services_2024-10-07, page B-1.
[30] Proposed Rate Models ODDS Services_2024-10-07, page C-1.
[31] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 12.
[32] Ibid., page 8.
[33] Proposed Rate Models ODDS Services_2024-10-07, page B-1.
[34] Ibid.
[35] Ibid.
[36] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 8.
[37] Proposed Rate Models ODDS Services_2024-10-07, page B-1.
[38] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 32.
[39] Proposed Rate Models ODDS Services_2024-10-07, page 7.
[40] Ibid.
[41] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 32.
[42] Proposed Rate Models ODDS Services_2024-10-07, page 7.

- Attendant care providers reported only 0.4 hours in average travel time between individuals, but the SMA model assumes over 300% more time, driving up the adjusted cost of the overall hourly rate.[43,44]

The effect of using overestimated, unsupported assumptions about provider costs and operations is to massively inflate the overall hourly rate. Because no provider is required to divide their hourly rate into the spending shares assumed by Burns & Associates, the door is open for large, opportunistic, profit-seeking providers to capture surplus rate dollars as profits and owner compensation instead of funding the generous worker benefits assumed in the model. The more inflated the assumptions, the more Medicaid funding that goes to profits instead of direct care – this is why it's critical for DHS to get the costs right as the steward of public dollars.

None of this confusion would be necessary with robust, auditable cost reporting as already exists in skilled nursing. SEIU has advocated for this type of reporting before and throughout this process. There is no way to understand how to standardize direct care worker compensation without these data. DHS needed to analyze how the massive rate increases implemented in July 2022 with the introduction of the Standard Model were affecting service recipients, the workers who provide services, and the connections between service models. If they had, it would have shown what is clearly seen in DHS payments data and the labor market: a historic consolidation of services in the hands of fewer and fewer for-profit providers whose owners raked in millions in profits from Medicaid dollars, the creation of an enormous wage disparity between service models, and the siphoning of labor from insufficiently supported PSW services to agency services driven by the inflated Standard Model rate. This is what the department's own data shows, and what workers and service recipients have been experiencing for the past two years.

Instead, DHS wasted a year of meetings and hundreds of thousands of dollars in consultant fees on a failed survey tool and other shallow analysis that produced largely unusable cost estimates. If DHS had used this budget note process to assess the impact of the Standard Model rate and create mandated cost reporting, we would already have the accurate estimates the state needs to set rates and come into compliance with the federal 2024 HCBS Access Rule.

3. **The Study does not prepare DHS to comply with the impending federal HCBS Access Rule.**

[43] "ODDS Services – Provider Survey Analysis", October 7, 2024, page 13.
[44] Proposed Rate Models ODDS Services_2024-10-07, page 7.

The Center for Medicaid Services (CMS) recently announced new federal regulations for in-home services funded by Medicaid. The lengthy rule includes many provisions aimed at improving job quality for care workers and increasing access to services for Medicaid recipients. For example, there are currently no requirements that any specific portion of Medicaid funding go directly to direct care worker wages or benefits. In Oregon, workers' wages and benefits vary wildly despite having a shared payer. The Access Rule will require 80% of reimbursement rates go directly to care. This requirement and the associated transparency mechanisms will improve access to needed care and increase accountability toward Oregon's goal of high-quality care and jobs, as well as efficient home and community-based care.

DHS identified uncertainty around forthcoming sub-regulatory guidance about the Access Rule as a reason they didn't include access rule considerations in the current study. While additional guidance may be forthcoming, DHS has enough information now to understand the intent of the rule is to improve transparency, including more robust cost reporting and wage pass-through requirements. The proposed recommendations do not move Oregon closer to the goals of the CMS Access Rule.

4. **The Study fails to examine how HCBS rates, wages, and labor patterns have impacted each other and changed over time.**

The Study contains no retrospective analysis of how the Standard Model rate, developed by Burns & Associates with the same methodology as this study, has impacted the quality and volume of services in the attendant care sector and its direct care workforce. The rate continues to create gigantic wage disparities between direct care workers in attendant care – as large as $10 per hour between PSWs and Direct Support Professionals (DSPs) – and reduce the share of services provided by nonprofit agencies.

PSW entry-level pay will be $20 per hour in January 2025, with some workers making $21 to $23 per hour. The largest SMAs in Oregon, who make up most of the state's service hours, currently hire between $23 and $24 for starting hourly pay, and between $26 and $27 for

more experienced direct care workers.[45,46,47] At other agencies, the pay disparity is even greater, rising to $30 per hour for DSPs at Enable.[48]

Compare these to the average wage assumption of $18.38 in the current SMA rate model and ask the critical questions this study should have answered.[49] How is it possible that agencies can pay up to $10 higher per hour than what's assumed as the "average" for direct care wages? How are agencies paying such wages, enjoying 20%+ profit margins, and still meeting the enhanced provider requirements of the Standard Model? What will happen to the existing disparity between PSW and DSP wages when the Standard Model rate is increased by 31%? There are no answers in the Study's recommendations to these questions, or how the recommendations will standardize direct care worker compensation.

5. **The Study does not offer a usable stakeholder framework for present or future rate-setting.**

From the beginning, DHS mismanaged the implementation of this budget note process. Advisory group members had no chance to weigh in on how DHS should reach the Study's recommendations: what information needed to be considered, how it needed to be collected, how it needed to be analyzed, and how we would determine what constituted "standardization." Instead, before convening any HCBS stakeholders, DHS hired Burns & Associates to carry out the process in full. Burns & Associates then imported the same rate-setting methodology they used to build the Standard Model rate, imposing the same flaws and mistaken assumptions to the rest of the HCBS services covered in the Study. They also did not take the opportunity to revise their incorrect assumptions about the Standard Model, only choosing to inflate their damaging impact further with another historic rate increase.

Once DHS assembled HCBS stakeholders, Burns & Associates railroaded the advisory group through each of the seven meetings from November 2023 through August 2024 in a predetermined process for reaching results. They frequently missed deadlines to share information, delaying even the release of draft findings and recommendations until the day

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[45] Rever Grand, "Begin Your Career With Rever Grand", captured 10/23/2024. "Direct Support Professionals with Rever Grand now start at $24 per hour, with a fast path to $26 per hour." https://rgoregon.com/begin-your-career-with-rever-grand/

[46] Premier Community Supports, DSP job postings captured 10/23/2024. "$23-$26 per hour". https://recruiting.paylocity.com/recruiting/jobs/All/19192bf9-e591-4bb1-a378-1c5b5fedf827/Premier-Community-Supports

[47] DSP Connections, DSP job postings captured 10/23/2024. "Direct Support Specialist…Salary: $24.00 hourly", "Experienced DSP…Pay Scale: $24-$27". https://sites.hireology.com/dspconnectionsinc/

[48] Enable, captured 10/23/2024. https://enable.family/#qualifications

[49] Burns & Associates, "Final Rate Models prepared for Oregon Office of Developmental Disabilities Services", July 1, 2023, page 5. https://www.oregon.gov/odhs/compass/Documents/provider-rate-models.pdf

that public comments opened, a month after the original budget note directed DHS to submit a final report to the Joint Committee on Ways and Means or the Emergency Board. In multiple meetings, Burns & Associates spent nearly the entire scheduled time presenting, often repeating information across meetings and offering few opportunities to digest the volumes of incomplete and confusing information for feedback. For example, when presenting the initial survey results in June 2024, Burns & Associates asked advisory group members to identify where results looked "inappropriate" or "inconsistent." This was not possible without a framework for understanding how the results were supposed to translate into recommendations that would standardize direct care worker compensation. In addition, the initial results were not representative of the services they surveyed, had not yet been weighted by revenue, and the number of outliers for each question had not been released (and was not released until the last business day before public comments were due). There was no way to tell how the survey results would be considered alongside other data sources, whose collection and analysis the advisory group would not see anything of until months later. Even then, advisory group members are still missing crucial information about what was collected and how it was used, e.g., the 33 job postings compiled for all ODDS provider types and 35 for APD provider types. Follow-up requests for additional information, such as the number of outliers excluded from each field, and advice on what should be part of the group's scope, such as provider profits, were late-arriving or ignored. When we raised the alarm about profits being excluded from the analysis, DHS encouraged us "to look forward rather than back." How else is the state supposed to understand how to move forward if we do not look at the impacts of rate changes of even the recent past? In short, the structure and management of the advisory group did not make it possible for its members to offer substantive feedback.

A more open discussion of how this process was supposed to end in recommendations to standardize direct care worker compensation did not take place until the advisory meeting at the end of July 2024, about nine months after the first meeting. Advisory group members raised obvious concerns that should have been the places where the process began, like what the path to standardization is and what role acuity should play. As one advisory group member aptly asked at near the end of that meeting, "What is the purpose and goal of this group?"

At no point did DHS appear to exert any control over the process to improve its chances of it producing useful, on-target findings and recommendations, or increase advisory group member participation, essentially outsourcing their oversight responsibilities to Burns & Associates. If they were as frustrated with the process as advisory group members were, DHS did not communicate it.

As a result, this process has failed to fulfill the mandates of the budget note. The State should consider establishing a Direct Care Workforce Standards Board as a sustainable solution to build a fair, transparent, and equitable reimbursement structure for caregivers. A standards board would be responsive to the evolving demands of the caregiving landscape while centering the voices of those most impacted—workers, consumers, families, and provider agencies. Unlike the current Rate & Wage Study, which lacks the depth to create adequate reimbursement rates, a standards board would bring a collaborative approach to setting rates, ensuring they accurately reflect the needs of caregivers and those they serve. By standardizing rates and establishing a wage minimum for direct care workers, this board could provide the stability the sector needs to improve the quality of care and reduce turnover. A permanent standards board provides lasting infrastructure for systemic change—something the state is sorely lacking across our Medicaid aging and disability programs. The way Oregon has approached rate setting, including this study, results in winners and losers, confusion among stakeholders including legislators, and ultimately fails to respond to workforce challenges in a timely way.

Recommendations

Our first recommendation to the Legislature is to reject the Study's findings and not adopt its flawed, dangerous, and costly recommendations. There are no adjustments at this late stage that can be made to improve its ability to fulfill the budget note's mandates.

SEIU's recommendations remain largely the same as what we have been communicating to the state and advocating for years: address the needs of service recipients and the workers who actually deliver care services. With renewed urgency, we recommend:

1. **Fix the investment imbalance between the agency and self-directed service models.** The Study recommends a $5 per hour increase to the base wage rate for Homecare Workers (HCWs) and PSWs. While this is a strong investment in the self-directed service model, the state moves even further away from standardizing compensation across service models when the Standard Model is raised 31% and the APD in-home care agency rate is raised to match it. The Standard Model is facilitating the mass for-profit privatization of DD in-home care services while depriving self-directed PSW services of essential support. PSW services have lower costs per service hour, more of every dollar dedicated to direct care, and a 0% profit margin, but a vast, unsustainable investment divide between the two models threatens the viability of the PSW program and the essence of the state's mission to provide diverse, individualized supports to people with intellectual and

developmental disabilities. The state must make immediate investments to improve PSW service access and job quality:

a. Raise HCW/PSW wages;
b. Increase HCW/PSW recruitment and retention;
c. Eliminate unacceptable background check delays;
d. Create easier back-up care arrangements;
e. Address provider challenges and missed pay while transitioning between clients;
f. Offer human resources support to HCWs/PSWs.

2. **Implement a direct care spending requirement and comply with the HCBS Access Rule.** Oregon does not require agencies to spend a minimum share of their Medicaid reimbursements on direct care. As a result, companies can funnel any amount of public money into enormous profits and owner compensation rather than care. The Access Rule will require states ensure at least 80% of HCBS Medicaid payments fund direct care worker compensation.[50] While implementation of this provision in the final rule is a few years away, other states have already set direct care spending minimums and adopted wage pass-throughs as high as 90%, ensuring a basic level of care investment and controlling the share of public dollars flowing to profits and administration.[51] Oregon has the opportunity now to come into compliance with the impending federal rule and head off the excessive, growing profits that large corporations are realizing here at the expense of broader workforce investments. DHS must urgently implement a requirement that at least 80% of Medicaid reimbursement dollars must be spent on direct care in HCBS.
3. **Require robust financial transparency from agencies.** While DHS chooses to collect independent financial audits from ODDS agencies, the requirement does not exist in statute or state administrative rules, and no equivalent collection is required of in-home care agencies in APD. To comply with the federal rule referenced above, DHS will need to collect and report cost information on direct care spending, profits, and administration and overhead across all HCBS agencies. For transparency and consistency, DHS should design and require an independently auditable, standardized cost reporting process and form. The process must include broad, regular auditing of information submitted by agencies to ensure compliance with direct care spending minimums. As part of the federal rule, CMS will also provide technical assistance for cost reporting.[52]

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[50] Ensuring Access to Medicaid Services, Centers for Medicare & Medicaid Services, May 10, 2024. https://www.federalregister.gov/public-inspection/2024-08363/medicaid-program-ensuring-access-to-medicaid-services

[51] Ibid.

[52] Ibid.

a. In addition to compliance with federal requirements, Oregon law mandates requirements for DD provider agencies in SB 1548 (2022): *"Requirements to ensure that wages and health benefits paid to direct support professionals delivering community-based supports reflect any increase in rates approved by the Legislative Assembly for the purpose of improving wages and health benefits"*. Current reporting requirements are insufficient for DD providers, and the state should not proceed with rate increases until they have established adequate reporting mechanisms for fiscal transparency and wage pass through compliance.

4. **Form a Direct Care Workforce Standards Board.** The Rate & Wage Study was initiated due to a care workforce crisis and the clear need to improve job quality and raise wages. Unfortunately, the study did not produce recommendations to address these issues, but we believe a Direct Care Workforce Standards Board would. Oregon's HCBS workforce is in crisis; high turnover and poverty wages continue to degrade care quality at a time when people increasingly need services. Care workers do not have the security, respect, and autonomy they deserve. Together, workers, care recipients, and other stakeholders need a board with collective authority to raise the workforce's wages, improve working conditions, and safeguard high quality care, safety, and training standards. Similar boards already exist in Colorado and Nevada, where the boards successfully pushed the legislature to increase wages, strengthening the care workforce's ability to provide quality services and increasing people's access to quality care providers.[53]
5. **Improve accessibility of final report.** The study findings, both the data and the accompanying slide deck, were difficult to parse through, even with dedicated research staff. We recommend including additional information about data collection and analysis. This information needs to be available to the public and accessible to a lay audience. We struggled to make sense of the information as presented currently, and we hope the study authors will be more transparent and include narrative descriptions of the findings as well as choices made by the research team during the study. We had hundreds of SEIU members submit public comments, and we observed frustration from stakeholders throughout this entire process. The study authors must make public all of the feedback, not just provide a summary of public comment when the final report is presented to the legislator. Information we feel is critical to include in final report:

[53] Nevada Home Care Employment Standards Board. https://dhhs.nv.gov/Programs/HCESB/HCESB_Home/

a. Survey response rates, including sample size and total number of each provider type for each field reported (e.g., no Specific Needs Contracts facilities responded to the survey).
b. Results by provider type, including standard deviations. We were able to get this information by requesting it from the authors and we were surprised to see large deviations for several provider types – critical information as legislators consider rate increases and their expected impact.
c. Outliers, including how many outliers were excluded from analysis and why for each setting.
d. Job posting analysis referenced by the authors, analysis of the site visits, interviews, and any additional analysis.
e. Stakeholder feedback in full received during the public comment period.

The Study's recommendations also raise a number of immediate questions which are critical for DHS to answer:

- How does DHS intend to come into compliance with the federal HCBS Access Rule?
- How will DHS address the Study's recommendation to develop reporting requirements and "collect information regarding the impact of any rate increases"?[54] How would the department evaluate the "effectiveness" of rate increases, especially as it relates to standardization of direct care compensation?
- For residential care facilities, whose recommendations around specific needs contracts would result in "significantly lower rates than current rates", what kind of timeline does DHS have for this transition?[55] What plan is in place to address disruption of services and labor market instability if the Legislature adopts the recommendations?

Finally, we note that Adult Foster Home providers have submitted separate public comments specific to their service setting and type. We urge DHS to review them closely and address their concerns.

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[54] "Wage and Rate Study Presentation of Initial Recommendations", October 7, 2024, slide 92.
[55] Ibid., slide 148.