

Analysis

Item 11: Department of Human Services

Program Sustainability

Analyst: Laurie Byerly

Request: Acknowledge receipt of a progress report on program sustainability options and actions.

Recommendation: Acknowledge receipt of the report.

Analysis: The budget report for SB 5701 (2016), the omnibus 2015-17 budget reconciliation bill passed during the 2016 legislative session, contained a budget note directing the Department of Human Services (DHS) to provide an update on program sustainability options and more immediate actions planned to help contain costs.

This sustainability work is specific to the Aging and People with Disabilities and the Intellectual and Developmental Disabilities programs and is in response to legislative concerns about budget growth and increases in both caseload volume and costs. A connected 2015 budget note required interim reporting; DHS last reported on these concerns during the 2016 legislative session and discussion around that report resulted in the current budget note. The report was heard in the Joint Committee on Way and Means Subcommittee on Human Services on February 17, 2016.

Part one of the budget note directs the agency to continue to further develop policy and budget options that will support legislative decision making during the 2017 legislative session. While the February 2016 report, which was completed with assistance from an outside contractor, did provide estimated savings for certain scenarios, due to time and data constraints it was not possible for the contractor to identify all potential budget or program impacts - including the ability to scale or incrementally implement solutions.

Stakeholders also expressed interest in exploring some other options or ideas. With their engagement, DHS reports working on proposals in several areas toward optimizing programs and controlling costs while minimizing impacts on consumers and providers. Along with changes to eligibility, services, and rates that were initially reviewed, these include utilizing various Medicaid authorities, increasing efficiency, reducing duplication, improving training, cultivating safety, and emphasizing fraud prevention. Some additional information regarding certain options will be provided during the May Emergency Board meeting, with more details and pricing associated with alternatives available closer to the 2017 legislative session.

Part two of the budget note directs DHS to move forward on a series of actions that may help contain costs without changing the current service structure or requiring law changes. While the agency is not yet able to quantify any associated cost savings or identify caseload impacts, the following initiatives are underway in each program area:

Aging and People with Disabilities

- Realigning rules with questions used in assessment tools to ensure service needs and hours are appropriately calculated.
- Reviewing samples of new consumers to ensure consistency and accuracy of assessments.
- Supporting local offices and home care workers to improve record keeping and ensure hours worked are within authorized levels.
- Verifying, through a time study, the amount of time it takes to perform tasks for a consumer.
- Seeking ways to limit use of overtime in service plans.
- Working with a federal technical assistance vendor to improve practices around natural supports and the balance between natural and paid supports.
- Restricting the live-in program and reviewing all program plans or requests centrally.

Intellectual and Developmental Disabilities

- Developing a process for adjusting authorized hours of support within the current assessment tools.
- Using the updated calculation to assess new clients starting in July 2016 for plans that start on September 1st, with all clients reassessed by July 2017.
- Seeking ways to limit use of overtime in service plans.
- Working with a federal technical assistance vendor to improve practices around natural supports and the balance between natural and paid supports.

Some of these initial approaches may evolve as they are tested and implemented; feedback received from system participants may also influence direction. It is possible that consumer appeals will affect the agency's ability to make progress on some actions, particularly when it comes to changes in hours authorized or assessed needs. The agency will likely have an update on related outcomes or other potential challenges when DHS makes its next required report in December 2016. If there is new information or compelling data to share prior to that time, the agency will report sooner.

The Legislative Fiscal Office recommends acknowledging receipt of the report.

11
Oregon Department of Human Services
Brickman

Request: Report on progress to develop policy and budget options to “ensure future sustainability of the APD and I/DD programs” by the Department of Human Services (DHS).

Recommendation: Acknowledge receipt of the report.

Discussion: During the 2015 Legislative Session in the budget report for House Bill 5026 the following budget note was directed to DHS:

“The Department of Human Services is directed to report to the Joint Committee on Ways and Means during the 2016 Legislative Session on ways to ensure services to older adults and people with disabilities and people with intellectual and developmental disabilities remain sustainable into the future with a goal of capping biennial general fund budget growth at 10.0 percent. Issues explored should include, but are not limited to, service eligibility, income eligibility criteria, and service array or level of services offered. For identified options, the report will cover associated fiscal impacts, potential implementation timelines, state law or rule changes required, experiences from or comparisons to other states, and the likelihood of obtaining any needed federal authorization.”

DHS contracted with The Lewin Group to produce an independent study that provided potential recommendations to make the Adults and People with Disabilities (APD) and Intellectual and Developmental Disabilities (I/DD) programs more fiscally sustainable. The Lewin Group produced a report in a very short period of time with certain suggestions. DHS reported on this study with The Lewin Group during the 2016 session. To provide further guidance to DHS the follow budget note was placed in SB 5701 (2016):

- 1) *The Department of Human Services is directed to take steps to provide policy and budget options for decision making that will be required during the 2017 legislative session to ensure future sustainability of the APD and IDD programs. Steps include further refinement, analysis, and pricing of viable options or ideas brought forth by the agency, stakeholders, and other interested parties; the focus should be on ways to control caseload growth and utilization. The agency will reach out to legislators, stakeholders, and partners to assist in this effort. In developing sustainability proposals, the Department shall prioritize options that minimize impacts on consumers and providers. The Department will also formally report, at a minimum, to the Emergency Board during Legislative Days in May and December 2016 on progress made under both parts of this budget note. The agency may also be requested to report to interim legislative policy committees on human services.*
- 2) *In addition to the work described above, the Department is also directed to take immediate actions that may help contain costs without changing the current service system structure and that do not require statutory changes. The agency’s action plan includes:*
 - *Review and correct, if needed, the relationship between assessment tools and program eligibility criteria;*
 - *Take action to more efficiently align service authorization with people’s needs, also consider appropriate limits;*

- *Work to limit use of overtime in service plans; but the agency should take into account workforce shortage areas, the needs of consumers, and changes to current consumer provider relationships;*
- *Continue discussions with CMS to prevent the conversion of natural support to paid support, with consideration for parental responsibility; and*
- *Further restrict the live-in program to prohibit live-in service plans when the individual lives in their family's home or the family lives with the individual and is served by that relative (they would still be served in the hourly program).*

As required in the budget note, the department is providing its first report on recommendations and actions it has taken to accomplish the directives received in the budget note. The following are potential recommendations, that will need further development, and actions the department has taken to date to help make the programs more sustainable.

Recommendations

DHS is working on the following proposals with the goal to reduce costs and sustain the program while prioritizing to minimize the impact these proposals will have on consumers and providers:

- 1) Exploring different Medicaid authorities;
- 2) Developing work processes that are more efficient to reduce duplication and teach accuracy;
- 3) Developing a stronger culture of safety and fraud prevention in order to focus on the people served by DHS and ensure they are in safe environments with work being accomplished within its authority and scope;
- 4) Continuing to work on gathering data regarding I/DD eligibility criteria.

The Department is working diligently to include stakeholders in being a part of the recommendation and planning process. The I/DD program has established a Vision Advisory Committee to discuss sustainability strategies for the I/DD system. The Committee is comprised of several partners and stakeholders and has met eight times since July 2015. One of the group's main purposes is to review options for sustainability and planning for the future of the I/DD system.

With respect to the APD program, the department is conducting listening sessions with many partners and stakeholders and is involved in one-on-one conversations to develop possible recommendations. Furthermore, the field structure, including the Area Agencies on Aging, are participating in this effort.

Immediate Action taken by DHS

1. Re-evaluating assessment tools and program eligibility criteria. Within the APD program they have determined that some of the activities of daily living (ADL) criteria used to determine an individual's Service Priority Level (SPL) might not meet "the original spirit of the rule" with some of the consumers SPL needs being lower than expected. DHS is working to review the Oregon Administrative Rules (OARs) to ensure that they are consistent and to better align the questions they use with the assessment tool.

Within the I/DD program, the department is working to develop one assessment tool for the program. Currently there are four different tools used to conduct assessments on clients. The plan is to conduct a pilot using the eXPRS system.

2. Align Service Authorization with Peoples' Needs. In October 2015, the APD program began conducting random sample of sixty new consumers qualifying for long term care. Forty consumers in the sample are being reviewed by local management and twenty by the central office policy team. As part of this random sampling, the department is looking to several factors including (1) whether Coordinated Care Organizations (CCOs) are prematurely ending skilled nursing facility benefits, and (2) whether the assessments are being performed accurately and are supported by the proper documentation. Of the samples reviewed to date, the reviewers have agreed with 79 percent of the eligibility requirements. In the remaining 21 percent of reviews, seven percent of the reviewers disagreed with the selection based on the information in the assessment having a potential impact on eligibility decisions, and fourteen percent of the reviews may result in changing the number of hours or assessed rate for the consumer. The department is aiming for 95 percent accuracy in assessments. The department plans to continue this enhanced quality assurance activity. The APD program conducted a pilot for enhanced record keeping by providers and completed the state-wide roll out of the pilot in April 2016. Finally, the APD program is in the contracting process with Public Consulting Group (PCG) to study the amount of time certain tasks providers perform for consumers. The goal of this study is to validate, reduce, or increase the allocation of hours in service plans, as well as to identify if some tasks or needs are not being addressed.

The I/DD program is conducting an analysis of expenditures for in-home services to improve the current process for identifying and authorizing the hours of support for adults and children and to ensure service authorizations more closely align with the needs of the individuals. I/DD has also set a target date of July 1, 2015 to implement a new calculation for authorizing hours of support under the current assessment tools. This change is expected to be fully implemented by June 30, 2017 as current clients will need new authorizations at the time of their renewal date. New individuals needing I/DD services as of July 1, 2016 will be assessed with the new calculation.

3. Limit Use of Overtime in Service Plans. As a first step in the process, DHS implemented a policy in September 2015, limiting the number of hours a PSW or HCW could work per client at 50 hours per week. Additionally, both the APD and I/DD programs are currently in collective bargaining with SEIU on how to implement the overtime issue that came into existence with the U.S. Department of Labor's ruling on Home Care and Personal Support Workers.
4. Natural Support vs Paid Support. Both the APD and I/DD programs recently requested Technical Assistance from the Centers for Medicare and Medicaid Services (CMS) to help craft policies to decrease or eliminate payments for naturally occurring supports, which are currently required to be paid under the Community First Choice Option (K Plan). CMS approved the request and has agreed to pay for an external vendor to work with DHS on this issue.
5. Restrictions to the Live-In Program. This program is specific to APD services. DHS is currently working to reduce the amount of people accessing the live-in program, but still provide supports through its hourly program. From September 2015 to March 2015, the program went from 1,923 individuals receiving live-in services to 855 individuals (a 55 percent reduction). DHS continues to examine all live-in plans centrally and is working with local offices to work with the client on the achievability of establishing hourly plans for services to meet those individuals' needs.



Oregon

Kate Brown, Governor

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April 25, 2016



The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Re: Update on House Bill 5026 (2015) and the 2016 budget note on ways to ensure future sustainability for two Department of Human Services (DHS) programs.

Dear Co-Chairs:

Nature of the Request

The DHS Aging and People with Disabilities (APD) and Office of Developmental Disabilities Services (ODDS) Programs request permission to update the Emergency Board on the progress to develop policy and budget options for decision making that will be required during the 2017 legislative session. Specifically, this is in response to concerns about budget growth driven by increases in caseload and cost per case.

Budget Note:

- 1) The Department of Human Services is directed to take steps to provide policy and budget options for decision making that will be required during the 2017 legislative session to ensure future sustainability of the APD and IDD programs. Steps include further refinement, analysis, and pricing of viable options or ideas brought forth by the agency, stakeholders, and other interested parties; the focus should be on ways to control caseload growth and utilization. The agency will reach out to legislators, stakeholders, and partners to assist in this effort. In developing sustainability proposals, the Department shall prioritize options that minimize impacts on consumers and providers. The Department will also formally report, at a minimum, to the Emergency Board during Legislative Days in May and December 2016 on progress made under both parts of this budget note. The*

agency may also be requested to report to interim legislative policy committees on human services.

- 2) *In addition to the work described above, the Department is also directed to take immediate actions that may help contain costs without changing the current service system structure and that do not require statutory changes. The agency's action plan includes:*
- *Review and correct, if needed, the relationship between assessment tools and program eligibility criteria;*
 - *Take action to more efficiently align service authorization with people's needs, also consider appropriate limits;*
 - *Work to limit use of overtime in service plans; but the agency should take into account workforce shortage areas, the needs of consumers, and changes to current consumer provider relationships;*
 - *Continue discussions with CMS to prevent the conversion of natural support to paid support, with consideration for parental responsibility; and*
 - *Further restrict the live-in program to prohibit live-in service plans when the individual lives in their family's home or the family lives with the individual and is served by that relative (they would still be served in the hourly program).*

Agency Action

The Department has taken immediate action to address the requirements within the budget note. This includes:

1. Assessment tools and program eligibility criteria

APD – Some of the activities of daily living (ADLs) used to determine an individual's Service Priority Level (SPL) are allowing individuals to become eligible who may not meet the original spirit of the rule. Potentially, the consumer's service needs are lower than one would expect. The issue is not the SPL structure, rather it is the underlying details in the OARs. As examples:

- A consumer who requires assistance **once a month** with limited aspects of toileting currently qualifies for benefits at SPL 13.

- A consumer who requires **no assistance** inside their home to get around, but needs some hands on assistance outside and requires supervision while eating currently qualifies for benefits at SPL 12.
- A consumer who needs assistance transferring from their bed or chair only four days during a month qualifies as an SPL 10.

Some areas of the OARs are not clear or consistent with other parts of the rule. Our initial work on this issue includes APD policy analysts working to better align OARs with the questions used within the tool and recommending commonsense changes.

ODDS – The Office of Developmental Disabilities Services (ODDS) is required to conduct a functional needs assessment to inform the individual support plan for any individual receiving I/DD Medicaid funded services. The 2013 Oregon Legislature (under SB5529) directed ODDS to implement a single, uniform needs assessment tool. To meet this requirement, ODDS engaged expert assistance from Mission Analytics consulting organization and a broad range of stakeholders to develop the Oregon Needs Assessment (ONA) which integrates items previously included in existing tools (ANA and CNA), the Risk Identification tool, and the Level of Care Tool. A pilot to test this assessment will begin after development and testing of the tool is done in the eXPRS system and training materials are completed.

2. Align service authorization with people's needs

ODDS – Analysis of expenditures for in-home services and feedback received from partners and stakeholders indicates that the current process of identifying and authorizing hours of support for adults and children with Intellectual Developmental Disabilities (I/DD) needs improvement. The current process was implemented quickly to meet federal deadlines, with little ability to test the process or analyze results. In July 2015 the eXPRS system (payment and reporting system) was expanded to track authorization and actual utilization of in-home hours. Efforts are underway to ensure that in-home service authorizations more closely align with the needs of individuals.

A target date of July 1, 2016 has been set, by which ODDS will implement a new calculation for authorizing hours of support using the current assessment tools, the Adult Needs Assessment (ANA) and the Child Needs Assessment (CNA). All individuals currently receiving services will receive new authorizations at the time of their annual renewal date, with all individuals being reassessed by June 30, 2017. Any new individuals entering I/DD services starting July 1, 2016 will be assessed and

authorized hours of service based on new authorization levels. The change will be fully implemented by June 30, 2017.

All individuals impacted by the change will be eligible for appeals and hearing process. ODDS is working to implement an extensive communication plan to inform individuals and families, as well as all stakeholders of the change. Coordination and communication with CDDPs, Brokerages and other partners will be critical.

It is important to note that while this change will begin to slow the growth in I/DD in-home services, additional steps will be needed to make the program sustainable in the long term.

APD – As of October 2015, a random sample of sixty new consumers qualifying for long term care are being examined each month. Forty are being reviewed by local management and twenty are being reviewed by the central office policy team. Some of the factors being considered are 1) whether CCOs are prematurely ending skilled nursing facility benefits, and 2) whether the assessments were performed accurately and are supported by appropriate documentation.

- We have six months of data thus far, with in-home cases representing approximately 48% of the sample.
- Thus far, reviewers agreeing with approximately 79% of the eligibility-related components. Of the 21% that the reviewer disagreed with the selection based on the information in the assessment, only 7% of those would have a bearing on eligibility decisions; the other 14% could potentially affect the quantity of hours or the assessed rate. We are expecting to reach 95% accuracy in assessments.
- Cases where there are questions around eligibility are being reviewed locally with management, and policy and training options to improve assessments are coming out of the review.

APD will continue to perform the enhanced quality assurance tasks for the foreseeable future. We are increasing our trainings for case managers around highlighted areas of concern and strengthening our technical assistance. We have hired a new staff person to focus on continuous improvement and assisting local offices in reaching full compliance. Trends are anticipated as more and more months are reviewed. We will formulate more detailed action plans as those trends emerge.

Enhanced Record Keeping:

APD – The former process for Home Care Workers (HCW) to claim payment involves an attestation of hours worked each month and signatures from both the HCW and the service recipient. In October, we began piloting enhanced record keeping which requires a detailed accounting of all time worked including time-in, time-out, and days of week in addition to the attestation and signatures. We completed the state-wide roll out as of April 16, 2016.

Some HCWs are finding the process challenging but most are adapting to the new system and new expectations. We are working with local offices to coach HCWs that are having problems and are now sending letters to HCWs who have incorrectly completed their voucher. In May, we will begin sending letters to HCWs that have claimed more hours than authorized to reinforce their responsibilities as a Medicaid provider.

We will continue to support local offices and HCWs in managing these changes. We are currently hosting weekly conference calls, one on one conversations, and updating frequently asked questions.

In-Home Hour Time Study:

APD – DHS has contracted with Public Consulting Group (PCG) to examine the amount of time certain tasks take to perform for consumers. For example, how long does it take to bathe someone who requires minimal assistance, substantial assistance or full assistance? The expectation is that the results of this work will either validate, reduce, or increase the allocation of hours to service plans and determine if there are tasks or needs that are not being addressed in the service plan. PCG is finalizing the study methodology and should begin the study shortly.

3. Limit use of overtime in service plans

APD and ODDS – As of the writing of this letter, the State remains in collective bargaining with SEIU on how to implement overtime. While we cannot address the specifics of what is occurring at the bargaining table, the State continues to stress the importance of controlling costs in our in-home program. The State is seeking reasonable caps on the maximum number of hours Homecare Workers and Personal Support Workers can work under different scenarios. All decisions will remain sensitive to situations involving complex needs and workforce shortages.

In addition, DHS has implemented a policy, effective September 1, 2015, limiting the number of hours a Personal Support Worker (PSW) and a Home Care Worker (HCW)

can work; up to 50 hours per week, per each individual. This policy, however, did not limit the total number of hours a PSW and HCW can work for multiple individuals.

4. Natural support vs paid support

APD and ODDS – The Department recently requested Technical Assistance (TA) from the Centers for Medicare and Medicaid Services (CMS) on opportunities to craft policies that will decrease or eliminate payments for naturally occurring supports. CMS approved the request and a kickoff meeting was held April 6th with an external vendor.

The TA will also explore the ability, under K-plan authority, to promote a whole life concept, as opposed to a “paid service life”. The whole life concept consists of methods to expand and enhance community integration in a manner that will maintain existing relationships and encourage new relationships, including employment and community membership, for people served through Community First Choice Option (CFCO). With help from a TA team Oregon hopes to explore ways, under specific CFCO rules and guidelines, to distinguish between the characteristics and the outcomes of natural supports and paid services, rather than causing the conversion of natural supports to paid services, which has been an unfortunate outcome observed to date.

With additional States applying for CFCO, CMS has approved a variety of models under K-plan authority by which States identify assessed needs and authorize resources to cover those needs. The CMS TA support will help Oregon explore other models and practices that may assist in better aligning needs of individuals with Medicaid resources, while also encouraging the continuation of natural supports and access to community resources to promote community integration.

The vendor is very motivated to work with CMS and the State of Oregon on crafting more thoughtful policies that leverage naturally occurring supports and support a sustainable system of long term care. Oregon is currently gathering information and data requested by the CMS TA team to initiate work. Request is due by April 22, 2016.

5. Restrictions to the live-in program

APD – We are exceeding targets for reducing the live in program caseload. In September 2015, APD was serving 1,923 individuals in its live-in program. In March

2016, APD was only serving 855 individuals. This represents a reduction of 55%. We continue to scrutinize all live-in plans centrally and encourage our local offices to work with the consumer on the feasibility of establishing hourly plans.

Additionally, APD is exploring further options around live-in services. We continue to be concerned about the sustainability of this particular part of the APD program. That said, we would want eligible consumers to instead have their needs met through hourly service plans.

The Department believes additional policy and program changes will result in potential budget impact for the 2017-19 legislative session. These proposals are being developed and prioritized to minimize impacts on consumers and providers, while continuing to sustain the programs into the future.

These include:

- Exploring other Medicaid authorities.
- Work processes that are efficient, reduce duplication, and teach accuracy.
- Training processes that are current, flexible and easily accessible across the State.
- Developing a culture of safety and fraud prevention focus so the people we serve are in safe environments and that we are doing all within our authority and scope to protect vulnerable people.
- Continuing efforts to gather data on I/DD eligibility criteria

Stakeholder Engagement

Both Programs are committed to involving stakeholders as an integral component to this work.

While developing the independent study – the Lewin Group engaged over 50 APD and ODDS stakeholders, followed with over 80 individual comments through suggestion boxes. Since the 2016 budget note was published, the programs have hosted multiple meetings with stakeholders to open conversations about potential changes and additional ideas on overall system sustainability.

ODDS has established a Vision Advisory Committee charged with discussing sustainability strategies for the I/DD system. The Vision Advisory Committee includes representatives of the following partners and stakeholder groups:

- Adult Foster Home Provider
- Creating Opportunities
- Brokerage – Independence Northwest
- Family Action Coalition Team
- Albertina Kerr
- Partnerships in Community Living
- Community Access Services II, Inc.
- SEIU
- Association of Oregon Community Mental Health Programs
- Columbia County Developmental Disabilities
- AFSCME
- Brokerage Association – Oregon Support Services Association
- Self- Advocate
- Brokerage – Community Pathways
- Benton County Developmental Disabilities
- Oregon Council on Developmental Disabilities
- Oregon Rehabilitation Association
- Community Provider Association of Oregon (CPAO)

The Committee has met 8 times since July 2015 with the express purpose of reviewing options for sustainability and planning for the future of the I/DD system. The Committee reached agreement on a vision, I/DD system values and principles. Committee members are now considering options for the future. Frameworks have been presented and discussed that assume both keeping the CFCO and moving away from it. Stakeholders and partners have also initiated their own discussions with the intent of bringing their recommendations back to ODDS and the Vision Advisory Committee.

APD continues listening sessions with stakeholders and is engaged in one on one conversations to generate possible options, recommendations, and ideas. This includes representatives of the following partners and stakeholder groups:

- Governor’s Commission on Senior Services
- Home Care Commission
- Home Care Worker (individual)
- Oregon Dept. of Veterans Affairs
- Department of Administrative Services – Budget and Management
- Consumers
- Non Profit – LeadingAge
- Oregon Health Care Association
- Self-Advocate
- Northwest Senior & Disability Services
- Senator Chuck Riley
- Oregon Law Center
- Providence Elder Place – PACE program
- Oregon Association of Area Agencies on Aging and Disabilities

- Independent Adult Foster Home Association
- AARP
- Oregon Cascades West Council of Governments
- Multnomah County – Aging, Disability and Veterans Services Division
- SEIU

In addition, the field structure, including the Area Agencies on Aging are actively involved and participating in this effort. Through these sessions, approximately 400 comments have been received and are being tabulated to help develop the best direction and support for long term solutions to ensure budget sustainability.

These efforts have led to challenging conversations, and the opportunity to engage more openly on long-standing issues as we all focus on improving the systems. One critical component of all discussions is the need to be playful and thoughtful with whatever comes next. Many challenges our systems face today were a result of the pace at which significant change was implemented to meet externally imposed deadlines. This engagement will continue as these plans are further developed.

Action Requested

Acknowledge receipt of report.

Legislation Affected

None.

Sincerely,



Eric Luther Moore
DHS Chief Financial Officer

cc: Laurie Byerly, Legislative Fiscal Office
Ken Rocco, Legislative Fiscal Office
George Naughton, Department of Administrative Services
Tamara Brickman, Department of Administrative Services