

## Analysis

### Item 17: Department of Human Services

#### Ventilator-Assisted Services

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**Analyst:** Laurie Byerly

**Request:** Acknowledge receipt of a report on ventilator-assisted services and allocate \$300,000 from the special purpose appropriation made to the Emergency Board for these services in nursing facilities.

**Analysis:** The budget report for HB 5201 (2018), the omnibus 2017-19 budget reconciliation bill passed during the 2018 legislative session, contained a budget note directing the Department of Human Services (DHS) to develop a plan to increase access to ventilator-assisted services in nursing facilities. The bill also set aside \$300,000 General Fund in a special purpose appropriation to the Emergency Board for future distribution to DHS once the budget note work was completed and the required report was submitted.

Currently, there is no special Medicaid reimbursement rate for ventilator-assisted services offered in Oregon nursing facilities. Since these services are costly to provide, Medicaid clients who are stable (not in need of hospitalization or long term acute care facilities) but ventilator dependent currently have limited placement options. Some clients stay hospitalized while others relocate to another state with nursing facility placements. There are some slots for ventilator dependent patients in adult foster homes, but these are limited in number and may not be set up to provide ventilator weaning or other specialty care that may be needed.

The DHS plan, which was created with a workgroup of system participants, supports implementation of a new rate for ventilator services, effective January 1, 2019. The agency's report addresses the following plan components:

Enrollment Criteria – A separate endorsement/certification process will be used to ensure facilities and respiratory providers are well-prepared to serve this population.

Rate Methodology – The rate, which at \$625.88 per day is set at 200% of the basic nursing facility rate (\$312.94), is intended to incentivize provider participation and create bed capacity. Costs of ventilator equipment and supplies are expected to be covered by the rate and not be eligible for reimbursement by the Oregon Health Authority.

Medicaid Plan Amendments and Rule Changes – The agency is working to prepare plan amendments and rules for the program; assuming legislative approval of the funding request in September, these should be completed in time to implement the program early in 2019. The plan and rule changes will address certification, rate methodology, prior authorization requirements, and facility reporting.

Information Technology – Implementation of the new rate requires changes in the Medicaid Management Information System (MMIS) to accommodate the new ventilator rate. DHS believes the MMIS changes can be accommodated through user configuration within existing resources. It is possible a change request will be required of the MMIS to fully facilitate the MMIS support. There is

a slight chance of small impacts to the ONE Integrated Eligibility & Medicaid Eligibility project as some of the resources overlap.

Projected Costs/Budget – The agency is requesting full allocation of the \$300,000 special purpose appropriation to cover the projected cost of the nursing facility ventilator program over the last six months of the 2017-19 biennium. DHS projects that the prorated 2017-19 cost to be just under \$800,000 total funds, which is based on a gradual ramp up of beds from 2 to 12 or an average of 7 clients served each month; the state share of that amount is about \$300,000.

Costs for the 2019-21 biennium will depend on client demand along with the number of units or beds nursing facilities decide to develop and operate. For example, an average of 7 clients per month over 24 months would cost just over \$2 million total funds (\$1.2 million in state dollars), while an average of 20 clients would run about \$5.8 million (\$3.4 million state share). The state share could be paid by either General Fund or nursing facility provider assessment revenue. Overall costs may also fluctuate with changes in the basic nursing facility rate while the state share can move up or down due to adjustments in the Federal Medical Assistance Percentage (FMAP); both factors are set annually.

To address the 2019-21 costs, DHS will need to include updated program information, a cost analysis, and a funding request as part of the agency's budget discussions during the 2019 legislative session.

In addition to improved client outcomes, part of the rationale behind promoting ventilator dependent services in nursing facilities is that Medicaid costs elsewhere, for example in hospitals, will decrease. As clients move into the new placements, the Department will try to determine where the client would have otherwise been placed and how the associated costs compare to the cost of nursing facility ventilator dependent services. If savings can be quantified, the Legislature may want to consider using them to offset the cost of serving these clients in nursing facilities.

**Legislative Fiscal Office Recommendation:** Acknowledge receipt of a report on ventilator-assisted services and allocate \$300,000 from the special purpose appropriation made to the Emergency Board for these services in nursing facilities.

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Department of Human Services  
Brickman

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**Request:** Report on the progress of developing a plan to increase access to ventilator-assisted services in nursing facilities per a House Bill 5201 (2018) Budget Note; and request to allocate \$300,000 from a Special Purpose Appropriation made to the Emergency Board for this purpose.

**Recommendation:** Acknowledge receipt of the report and approve the request.

**Discussion:** During the 2018 Legislative Session, the budget report for House Bill 5201 included the following Budget Note directed to the Department of Human Services (DHS):

*“The Department of Human Services shall work with the Oregon Health Authority to develop a plan to increase access to ventilator-assisted services in nursing facilities, effective January 1, 2019. The plan should address criteria used to enroll nursing facilities and respiratory providers; the rate methodology proposed for compensating these services; state Medicaid plan amendments and administrative rules required to implement this initiative; any information technology changes needed to support the program; the projected costs for these services in the 2017-19 and 2019-21 biennium for the two agencies; and any other actions needed or barriers to be mitigated before service implementation. The Department shall prepare and submit a report containing the plan elements to the Emergency Board prior to October 1, 2018.”*

Subsequent to the 2018 Legislative Session, DHS organized a workgroup with several stakeholders (including the Oregon Health Care Association, Leading Age Oregon, Nursing Facilities, and Respiratory Service Providers) to address the Budget Note. The workgroup met five times, as did the subcommittees formed to discuss different issues.

The workgroup and its subcommittees developed, through consensus, a framework for implementation of a ventilator-assisted program in nursing homes. The framework lays out requirements for licensing for provision of these services, rates, a prior authorization process, new administrative rules, reporting requirements for nursing facilities, and modification to the Medicaid Management Information System (MMIS). The Department anticipates the \$300,000 General Fund set aside within a Special Purpose Appropriation (SPA) will provide funding to begin implementation of this program. Furthermore, the Department has set out a plan and timeline for the implementation, with Legislative involvement, and anticipates full implementation during the first quarter of 2019.

Oregon currently does not have a program for people to access ventilator-assisted services in nursing facilities. Individuals needing these services today are receiving them either out of state or in hospitals. Establishing a program for ventilator-assisted services will have a budgetary impact on the Department, but at this time it is hard to develop accurate numbers given there is no experience providing these services through Aging and People with Disabilities (APD) programs. The Department has estimated it may serve up to 12 individuals in 2017-19 with the amount from the SPA and up to an average of 16 individuals in 2019-21, for a potential need of \$2.7 million General Fund in 2019-21. More will become known as the program is implemented and running.

**Legal Reference:** Allocation of \$300,000 from the special purpose appropriation made to the Emergency Board by chapter 99, section 132(1), Oregon Laws 2018 to supplement the appropriation made by chapter 597, section 1(3), Oregon Laws 2017.



# Oregon

Kate Brown, Governor

## Department of Human Services

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August 27, 2018



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: HB5201 (2018) Budget Note for Ventilator-Assisted Services in  
Oregon Nursing Facilities

Dear Co-Chairpersons:

### **Nature of the Request**

Oregon Aging and People with Disabilities (APD) requests the Legislature acknowledge receipt of the report required under HB5201 (2018) and increase the Department of Human Services' General Fund Appropriation Chapter 597, section 1, subsection 3 by \$300,000.

### **Background**

HB5201 (2018) contained the following budget note:

*The Department of Human Services shall work with the Oregon Health Authority to develop a plan to increase access to ventilator-assisted services in nursing facilities, effective January 1, 2019. The plan should address criteria used to enroll nursing facilities and respiratory providers; the rate methodology proposed for compensating these services; state Medicaid plan amendments and administrative rules required to implement this initiative; any information technology changes needed to support the program; the projected costs for these services in the 2017-2019 and 2019-2021 biennium for the two agencies; and any other actions needed or barriers to be mitigated before service implementation. The Department shall prepare and submit a report containing the plan elements to the Emergency Board prior to October 1, 2018.*

“Assisting People to Become Independent, Healthy and Safe”

## **Process**

The Department convened a broad and diverse workgroup to address the requirements of the budget note. The workgroup consisted of participants from the Oregon Health Care Association, Leading Age Oregon, several Oregon Nursing Facilities, Nurses, Respiratory Service Providers and applicable staff from the Department of Human Services.

The stakeholder group has met on May 24, June 21, July 12 and August 13 with one additional meeting scheduled for August 23. Subcommittees were also formed with five meetings to date. The volume of meetings reflects the complexities associated with implementing this new service.

Stakeholder participation have been robust and helpful to date. The Department looks forward to continuing our work with them through the implementation of this project.

## **Framework:**

The stakeholder group has generally reached consensus on the following:

- The State should establish a separate endorsement/ certification process to ensure that appropriate licensing regulations have been implemented and verified prior to providing these services.
- The reimbursement rate should be sufficient to reverse current policy which has resulted in practically zero access to ventilator assisted services in nursing facilities.
- The reimbursement rate should be indexed to the statutory nursing facility basic rate. Currently, the basic reimbursement rate for nursing facilities is established at the 62<sup>nd</sup> percentile of allowable costs of nursing facilities (\$312.94 per day).
- The ventilator rate should be established at 200% of the basic nursing facility rate (\$625.88 per day).
- Ventilator equipment and supplies should be included as part of the ventilator rate and ineligible for further reimbursement via the Oregon Health Authority.
- A prior authorization process should be implemented.

- Reporting requirements for nursing facilities should be mandated in order to capture basic program performance metrics.
- New administrative rules for both the nursing facility endorsement and payment eligibility will be required.
- Modifications to the State's Medicaid Management Information System (MMIS) will be required for implementation.
- An initial legislative investment of \$300,000 general fund will be sufficient to begin this program in the 2017-2019 biennium.
- A reliable estimate of expenditures in the 2019-2021 biennium is impractical at this point due to the significant amount of unknowns.
- There is a need for this service and the Legislature was correct in pursuing this expansion.

### **High-level Plan Milestones:**

The Department is working under the assumption that the Legislature will provide final approval to proceeding with this new service. The following highlights the significant milestones associated with implementation:

- Issue tribal notification: Mid-August
- Submit Legislative Report- Mid-August
- Obtain Legislative consent: Late September
- Finalize Proposed Rules – Early Fall
- Draft State Plan Amendment – Early Fall
- Hold Rule Advisory Committee meetings- Fall
- State Plan Amendment Submission to CMS – Early Winter
- Begin Implementation – First Quarter 2019

### **Conclusion**

As stated earlier, there is widespread support and enthusiasm for implementing these improvements in Oregon. The Department and the stakeholder group appreciate the leadership of the Oregon Legislature in promoting this change.

### **Action Requested**

The Department requests the Legislature acknowledge receipt of this report and release the \$300,000 from the special purpose appropriation.

### **Legislation Affected**

Chapter 597, section 1, subsection 3.

If there are questions on this report or the tasks associated with implementing this service, please contact Mike McCormick at 503-945-6229 or via email at [mike.r.mccormick@dhsola.state.or.us](mailto:mike.r.mccormick@dhsola.state.or.us).

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