

CHAPTER 96

AN ACT

SB 1557

Relating to services to individuals who are under 21 years of age; creating new provisions; amending ORS 419C.380, 419C.392 and 419C.396; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

POLICY AND VALUES

SECTION 1. It is the intent of the Legislative Assembly in enacting sections 2 to 4 of this 2024 Act that the rules adopted by the Oregon Health Authority or the Department of Human Services and actions taken by the authority and the department to administer sections 2 to 4 of this 2024 Act be guided by the following policy and values, that:

(1) Each child and youth is an individual with unique strengths and needs and must be met with developmentally, culturally and linguistically appropriate and individually responsive services that recognize the individual as a whole person;

(2) Children, youth and their families are the experts on their lives and needs and must be meaningfully included in all decisions about their individual services and supports and be meaningfully included in policy making and service design;

(3) All children and youth, regardless of the type or severity of diagnoses or the disability they experience, must be supported to live, work, play and attend school in integrated community settings and must be supported to safely and successfully remain in their family homes and local schools to the maximum extent possible;

(4) Agencies and community partners must proactively recognize and build upon the unique strengths and potential of each child, youth and family;

(5) State agencies must prioritize child, youth and family-centered supports toward prevention and recovery;

(6) Children and youth must not be restricted to a single-service setting or delivery system and must be provided with access to all services for which the children or youth are eligible regardless of their disability type or family situation;

(7) Children, youth and their families must be supported to access the appropriate comprehensive home and community-based services and supports that prevent crises from happening or from reoccurring and that provide support and stabilization in the event of a crisis;

(8) State agencies that serve children, youth and their families must prioritize collaboration

and information-sharing to support children and youth receiving multi-system supports through culturally and linguistically appropriate, disability-affirming and family-focused supports to remain in the community and avoid physical or mental health crises, hospitalizations or out-of-home placements;

(9) State agencies that serve children, youth and their families and community partners of the state agencies must collaborate to provide wraparound, child and youth-centered and trauma-responsive supports to children, youth and their families, including foster families, as children and youth transfer between placement settings across the continuum of services; and

(10) The state must access, to the maximum extent possible, all federal funds available to support children and youth with complex needs, at home, in substitute care, in the community and at school.

ENTITLEMENT UNDER THE K PLAN

SECTION 2. Consistent with any assurances made by the Oregon Health Authority to the Centers for Medicare and Medicaid Services under the provisions of the state plan for medical assistance relating to the Community First Choice Option under 42 U.S.C. 1396n(k), the authority shall ensure that all children and youth who are eligible for medical assistance, including children who are in the custody of the Department of Human Services, who meet the criteria for an institutional level of care have access to the home and community-based services to which they are entitled under the state plan for medical assistance.

COORDINATION AND CROSS-AGENCY COLLABORATION

SECTION 3. (1) As used in this section:

(a) "Child" means an individual under 18 years of age.

(b) "Medicaid/CHIP Operations Coordination Steering Committee" means the committee comprised of executive level staff and subject matter experts that is required by the terms of the state's Home and Community-Based Services waiver, under 42 U.S.C. 1396n(c), to meet at least quarterly to coordinate all mutual policy issues related to the operation and administration of the state's medical assistance programs, including state plan amendments, waiver requests, rules, procedures and interpretive guidance.

(c) "Multi-system involved child or youth" means a child or youth who is concurrently involved in two or more of the child welfare, mental health, juvenile justice, special educa-

tion, developmental disability services or aging and persons with disabilities services systems.

(d) “Serious emotional disturbance” means a mental, behavioral or emotional disorder, regardless of origin, that:

(A) Is of sufficient duration to be diagnosed by a qualified licensed health provider utilizing the diagnostic criteria specified in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

(B) Has resulted in a functional impairment that substantially interferes with or limits the individual’s role or functioning in family, school or community activities.

(e) “Wraparound team” means a group of people chosen by a child or youth and connected to the child or youth through natural, community and formal support systems, who develop and implement the child or youth and the family’s plan to address unmet needs and work toward the child or youth and family’s vision and team mission.

(f) “Youth” means an individual 18 through 20 years of age.

(2) In consultation with the Medicaid/CHIP Operations Coordination Steering Committee, the Department of Human Services and the Oregon Health Authority shall adopt rules necessary to facilitate cross-agency coordination that supports each multi-system involved child or youth who is eligible for services and supports funded through the Community First Choice Option under 42 U.S.C. 1396n(k) or the state plan for medical assistance to have all of the assessed needs of the child or youth fully met, including through the use of available natural and community supports, while avoiding the duplication of services. At a minimum, the rules must:

(a) Clarify the roles of wraparound teams, community developmental disabilities programs, children’s intensive in-home services providers, schools, child welfare programs and other relevant entities in the determination of a multi-system involved child or youth’s level of care needs and an assessment of the functional and service coordination needs of each child or youth;

(b) Streamline the application and eligibility determination process by allowing each multi-system involved child or youth’s assessment, application and service plan to be shared across all relevant systems to the maximum extent permitted by state and federal law;

(c) Ensure that each child or youth who experiences intellectual or developmental disabilities in addition to mental illness or a substance use disorder is provided simultaneous access to services and support offered by each agency serving the child or youth without delay;

(d) Prohibit any agency, program or provider from denying mental or behavioral health ser-

vices to a child or youth because the child or youth has an intellectual or developmental disability or a substance use disorder, including alcohol use disorder, in addition to the child or youth’s mental illness or serious emotional disturbance;

(e) Ensure coordination between public agencies that serve multi-system involved children or youth:

(A) To support each multi-system involved child or youth to enable the child or youth to remain in the community and avoid health crises, hospitalizations or out-of-home placements;

(B) With a focus of the coordination being on prevention, recovery and support, recognizing the unique strengths and potential of each multi-system involved child or youth; and

(f) Support children or youth and their families to access the appropriate comprehensive home and community-based services and supports that prevent crises from happening or re-occurring and that provide support and stabilization in the event of a crisis.

(3) In adopting rules under this section, the department and the authority shall appoint a rules advisory committee that includes youth who are or who were multi-system involved children or youth, and their families.

INVESTIGATION AND REPORT ON K PLAN SERVICES AND SUPPORTS

SECTION 4. (1) As used in this section:

(a) “Child” means an individual under 18 years of age.

(b) “Mental health resource home” means a foster home specifically designed for children with mental illness, including those who have been removed from their families not due to abuse or neglect but to provide specialized foster care to meet their needs.

(c) “Multi-system involved children or youth” means children or youth who are concurrently involved in two or more of the child welfare, mental health, juvenile justice, special education, developmental disability services or aging and persons with disabilities services systems.

(d) “Serious emotional disturbance” has the meaning given that term in section 3 of this 2024 Act.

(e) “Treatment foster care” means a foster care setting providing enhanced services as an alternative to institutional or residential care and group home placements for children and youth with serious emotional disturbances or severe behavioral disorders.

(f) “Wraparound team” means a group of people chosen by a child or youth and connected to the child or youth through natural, community and formal support systems who develop and implement the child or youth and the

family's plan to address unmet needs and work toward the child or youth and family's vision and team mission.

(g) "Youth" means an individual 18 through 20 years of age.

(2) The Oregon Health Authority, in collaboration with the Department of Human Services and with families and youth with lived experience, shall investigate the services and supports provided to individuals under the age of 21 years and funded through the Community First Choice Option under 42 U.S.C. 1396n(k) that are provided to avoid a placement of a child or youth in each of the following types of institutions:

(a) A hospital, as defined in ORS 442.015;

(b) A nursing home;

(c) An intermediate care facility for individuals with intellectual disabilities or persons with related conditions certified under 42 C.F.R. part 483; or

(d) An inpatient facility providing psychiatric treatment to individuals under the age of 21 years.

(3) No later than October 1, 2024, the authority shall provide a preliminary report of the authority's findings in its investigation under subsection (2) of this section to the interim committees of the Legislative Assembly related to health care and to human services. The report must include, at a minimum:

(a) The following information disaggregated by each type of institutional care listed in subsection (2) of this section that are avoided by providing the services and supports described in subsection (2) of this section:

(A) The number of individuals under the age of 21 years who are receiving services and supports funded by the Community First Choice Option;

(B) How the authority informs the following individuals, facilities and organizations about how to access the services and supports:

(i) Individuals who are eligible for the services and supports and their parents, guardians or caretakers;

(ii) The child welfare programs within the Department of Human Services that have children in protective custody;

(iii) Pediatricians;

(iv) Children's mental health programs;

(v) Wraparound teams;

(vi) Schools; and

(vii) Hospitals;

(C) The types of home and community-based settings in which the individuals receive the services and supports;

(D) The number of individuals who received relief care utilizing funding available through the Community First Choice Option;

(E) The number of individuals receiving services and supports who are served by child welfare programs within the department;

(F) The total amount of federal funds generated to serve individuals under the age of 21 years through the Community First Choice Option in each of the prior three fiscal years;

(G) An estimate of the total amount of unmatched General Fund expenditures that could receive federal matching funds through the Community First Choice Option and that were spent to meet the needs of individuals under the age of 21 years who are in the child welfare system; and

(H) An estimate of the number of children disrupted from their family homes each year due to the children's unmet disability or mental health related needs; and

(b) Recommendations:

(A) About opportunities to use the Community First Choice Option to expand and enhance the services that will support individuals under the age of 21 years who experience serious emotional disturbances or mental illness to live successfully in their family homes and avoid crises;

(B) About opportunities to maximize federal matching funds to support services for individuals under the age of 21 years who experience substance use disorders;

(C) For how federal matching funds provided through the Community First Choice Option can be used to expand and enhance funding for and access to supports to foster parents serving children with serious emotional disturbances, mental illness or substance use disorders, including but not limited to relief care, training and in-home attendant care services;

(D) About whether and how provisions of Medicaid and Medicaid funding streams may be utilized to create mental health resource homes, specialized homes for up to two children with behavioral health needs or treatment foster care that is accessible to the children served by child welfare programs in the Department of Human Services and to children, youth and young adults without requiring the children, youth or young adults to first access the child welfare system or the juvenile justice system;

(E) About how federal matching funds through the Community First Choice Option can be used to support children and youth with serious emotional disturbances, mental illness or substance use disorders and to provide services necessary for a successful transition from institutional placement or other restrictive placement to a family home, a foster home or another less restrictive environment;

(F) For how multi-system involved children or youth who are eligible for services and supports under the Community First Choice Option or the state plan for medical assistance have their assessed needs fully met while avoiding duplication of services and supports, including by using available natural and community supports;

(G) For any statutory changes or changes to the authority's legislatively adopted budget that are necessary to implement recommendations that will maximize available funds through the Community First Choice Option and support children and youth to avoid crises and remain in the least restrictive environment; and

(H) About implementing a policy to disregard parental income when determining medical assistance eligibility for children and youth with serious emotional disturbances, including the following information about the effects of the policy:

(i) The estimated size of the population that is not currently eligible for medical assistance but that would be eligible for medical assistance due to such a policy;

(ii) The estimated cost to serve the entire eligible population;

(iii) Whether the number of children with serious emotional disturbances who are eligible to have their parents' income disregarded should be capped, and if so, at what number;

(iv) Criteria to utilize if the number of children described in sub-subparagraph (iii) of this subparagraph was capped; and

(v) What impact the disregard of parental income may have on preventing the temporary lodging of children in the custody of the Department of Human Services, accessing Medicaid funding for school-based care for students with high needs and boarding children in emergency rooms due to the lack of available placements.

(4) No later than March 1, 2025, the authority shall provide to the interim committees of the Legislative Assembly related to health care and to human services a report with updated information and recommendations described in subsection (3) of this section.

(5) The department or the authority shall implement without delay any recommendations that can be implemented without legislative action or budgetary authority or that are otherwise mandated under state or federal law.

ACCESS TO HEALTH CARE

SECTION 5. (1) The Oregon Health Authority, a community mental health program, a licensed medical provider or other certified or licensed practitioner, an education provider or a coordinated care organization may not deny any individual under the age of 21 years access to mental health assessment, treatment or services on the basis that the individual also has an intellectual or developmental disability.

(2) The authority, the Department of Human Services, the Department of Education, the Oregon Medical Board and other health licensing agencies that license or certify mental or be-

havioral health providers shall adopt rules to carry out the provisions of this section.

(3)(a) As used in this section, "education provider" means:

(A) A school district, as defined in ORS 332.002;

(B) The Oregon School for the Deaf;

(C) An educational program under the Youth Corrections Education Program;

(D) A public charter school, as defined in ORS 338.005;

(E) An education service district, as defined in ORS 334.003;

(F) An approved recovery school, as defined in ORS 336.680; or

(G) Any state-operated program that provides educational services to students.

(b) "Education provider" does not include:

(A) The Oregon Youth Authority;

(B) The Department of Corrections; or

(C) The Department of Education, except when functioning as an education provider on behalf of the Oregon School for the Deaf.

SECTION 6. Section 7 of this 2024 Act is added to and made a part of ORS chapter 414.

SECTION 7. (1) The Oregon Health Authority shall review, and amend as needed, current administrative rules and contracts to ensure that individuals receiving medical assistance who are under 21 years of age have timely access to the services described in subsection (2) of this section.

(2) The services described in subsection (1) of this section shall include:

(a) The medically necessary or medically appropriate medical assistance services necessary to:

(A) Prevent an individual who is under 21 years of age from needing an out-of-home placement, prevent the disruption of a current placement or prevent the need for the individual to move to a placement providing a higher level of care;

(B) Ensure the continuity of care for individuals under 21 years of age who are in out-of-home placements and move from one coordinated care organization to another coordinated care organization or are enrolled for the first time in a coordinated care organization; and

(C) Ensure, to individuals described in subparagraph (B) of this paragraph, uninterrupted access to prescription medication, medical equipment and supplies;

(b) Assessments or evaluations necessary to establish eligibility for services and supports provided in the medical assistance program or by the Department of Education;

(c) Diabetic supplies; and

(d) Counseling, therapy or mental health or substance use disorder treatment with a pro-

vider with whom a child or youth has an established relationship.

FEDERAL FUNDS FOR SCHOOL-BASED SERVICES

SECTION 8. (1) The Oregon Health Authority and the Department of Education shall develop strategies and recommendations to leverage federal Medicaid or Children's Health Insurance Program funds to support the inclusion, academic success and well-being of all Oregon students under 21 years of age who are eligible for medical assistance, including students with severe emotional disturbances and students who need school-based nursing services.

(2) No later than October 1, 2024, the authority and the department shall report to the Legislative Assembly, in the manner provided in ORS 192.245, on the strategies and recommendations developed. The report must include, at a minimum:

(a) Strategies to simplify medical assistance billing for school districts;

(b) Recommendations for any needed investments in infrastructure, including staff and technology, to ensure low-barrier access to services in the medical assistance program for eligible students; and

(c) Specific recommendations related to leveraging federal funds to increase access to school-based services including, but not limited to:

(A) Nursing services for medically fragile and medically involved students;

(B) Access to school-based mental health care, including screening, assessment, counseling, treatment and therapy from licensed providers;

(C) Access to school-based direct services in speech, physical and occupational therapy, nutrition, respiratory therapy, functional behavioral assessment and behavior support services;

(D) Personal care and noneducational attendant care services at school to improve access to inclusive settings for students with high needs; and

(E) Enhanced specialized transportation services.

(3) As used in this section, "medical assistance" has the meaning given that term in ORS 414.025.

DETERMINATION OF YOUTH'S FITNESS TO PROCEED

SECTION 9. ORS 419C.380 is amended to read: 419C.380. (1) An evaluation ordered under ORS 419C.378 must be conducted by a psychiatrist, a licensed psychologist or a regulated social worker. If

an evaluation is requested, the party at whose request the evaluation was ordered shall notify the court and other parties of the date, time and location of the evaluation and the name of the evaluator chosen by the party. A party or the court may submit written information to the evaluator for consideration. When written information that has not been provided to the court or an opposing party is submitted to the evaluator, the party submitting the written information to the evaluator shall provide the written information to the court and the opposing party.

(2)(a) A county court or justice court shall order the county to pay the fees and costs described in subsection (3) of this section from funds available for that purpose.

(b) A circuit court shall order the executive director of the Oregon Public Defense Commission to pay the fees and costs described in subsection (3) of this section from funds available for that purpose.

(3) Pursuant to subsection (2) of this section, the county or the executive director of the Oregon Public Defense Commission shall pay:

(a) A reasonable fee to a psychiatrist, licensed psychologist or regulated social worker in private practice who conducts the evaluation; and

(b) All costs, including transportation of the youth, if the evaluation is conducted by a psychiatrist, licensed psychologist or regulated social worker employed by the Department of Human Services [or is conducted by a community mental health program or community developmental disabilities program established under ORS 430.610 to 430.695].

(4) If an evaluation is ordered under ORS 419C.378, the county shall pay for the expense of the evaluation.

(5) After a motion is made by the court or the youth under ORS 419C.378 (3), the state shall have the right to seek an independent evaluation at its own expense.

(6) A youth may not be removed from the youth's current placement for the purpose of an evaluation performed under this section unless:

(a) The youth has been placed in a detention facility as defined in ORS 419A.004 or a youth correction facility as defined in ORS 420.005; and

(b) The removal is for less than 14 days.

SECTION 10. ORS 419C.392 is amended to read: 419C.392. (1) If the court finds that the youth is fit to proceed, the court shall vacate the stay under ORS 419C.378.

(2) If the court finds that the youth is unfit to proceed and that there is not a substantial probability that the youth will gain or regain fitness to proceed in the foreseeable future if provided restorative services under ORS 419C.396, the court shall:

(a) Immediately enter a judgment that dismisses the petition alleging jurisdiction under ORS 419C.005 without prejudice; or

(b) If necessary for planning or instituting an alternative proceeding, then not more than five days

after the findings are made enter a judgment that dismisses the petition without prejudice.

(3)(a) If the court finds that the youth is unfit to proceed and that there is a substantial probability that the youth will gain or regain fitness to proceed in the foreseeable future if provided restorative services under ORS 419C.396, the court shall continue the order under ORS 419C.378 staying the proceedings and order that the youth receive restorative services under ORS 419C.396.

(b) The court shall forward the order for restorative services to the Oregon Health Authority.

(c) Unless otherwise specifically ordered, the court's order for restorative services does not commit the youth to the custody of the authority or alter the guardianship of the youth.

SECTION 11. ORS 419C.396 is amended to read:

419C.396. (1) The Oregon Health Authority shall arrange for the provision of or begin providing restorative services within 30 days after receiving a court order under ORS 419C.392 (3). The authority shall send a report to the court, with copies to the parties to the proceeding initiated by a petition alleging jurisdiction under ORS 419C.005, no later than 90 days after receipt of the order. The report must describe the nature and duration of restorative services provided, indicate whether the youth is fit to proceed or presents a substantial probability of gaining or regaining fitness to proceed and recommend whether restorative services should be continued and, if so, the type and duration of the services.

(2) Within 14 days after receiving a report under subsection (1) of this section, the court shall determine the youth's fitness to proceed **and enter an order.**

(3) Upon the recommendation of the authority, the request of a party or the court's own motion, the court may hold a review hearing concerning the evaluation of the youth's fitness to proceed at any time during which restorative services are provided pursuant to an order under ORS 419C.392 (3). After a review hearing, the court shall determine the youth's fitness to proceed.

(4) If the court finds that a youth is fit to proceed, the court shall vacate the stay under ORS 419C.378.

(5) If the court finds that the youth remains unfit to proceed and that there is not a substantial probability that the youth will gain or regain fitness to proceed in the foreseeable future, the court shall:

(a) Immediately enter a judgment that dismisses the petition alleging jurisdiction under ORS 419C.005 without prejudice; or

(b) If necessary for planning or instituting an alternative proceeding, then not more than five days after the findings are made enter a judgment that dismisses the petition without prejudice.

(6) If the court finds under subsection (2) or (3) of this section that the youth remains unfit to proceed, but that the youth presents a substantial probability of gaining or regaining fitness to proceed, the court shall order that restorative services

be continued. The court shall order the authority to send a report to the court, with copies to the parties, within a specified time, not to exceed 90 days from the time the order is filed.

(7) If the court finds under subsection (2) or (3) of this section that a youth remains unfit to proceed, the youth shall be discharged within a period of time that is reasonable for making a determination whether the youth presents a substantial probability of gaining or regaining fitness to proceed. Regardless of the number of acts the petition alleging jurisdiction under ORS 419C.005 alleges that the youth committed, the youth may not be continued in restorative services for longer than whichever of the following, measured from the date the petition is filed, is shorter:

(a) Three years; or

(b) The period of time that is equal to the maximum commitment the court could have imposed if the petition had been adjudicated.

(8)(a) If the court orders placement for restorative services, the court may specify the type of care, supervision, security or services to be provided by the authority to any youth placed in the custody of the Department of Human Services and to the parents or guardians of the youth.

(b) The authority, in coordination with the Department of Human Services, the local juvenile department and the youth's family, may place the youth in any facility authorized to accept the youth and provide the necessary services and care that are most appropriate for the youth.

(c) The authority shall continue to provide restorative services wherever the youth is placed.

APPROPRIATIONS AND EXPENDITURE LIMITATIONS

SECTION 12. Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Health Authority by section 1 (1), chapter 591, Oregon Laws 2023, for the biennium ending June 30, 2025, for Health Systems Division - Administration, is increased by \$314,619, for carrying out sections 1 to 8 of this 2024 Act.

SECTION 13. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 5 (1), chapter 591, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter 591, Oregon Laws 2023, collected or received by the Oregon Health Authority, for Health Systems Division - Administration, is increased by \$314,619, for carrying out sections 1 to 8 of this 2024 Act.

SECTION 14. Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Health Authority by

section 1 (7), chapter 591, Oregon Laws 2023, for the biennium ending June 30, 2025, for state assessments and enterprise-wide costs, is increased by \$3,285, for carrying out sections 1 to 8 of this 2024 Act.

SECTION 15. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 5 (7), chapter 591, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter 591, Oregon Laws 2023, collected or received by the Oregon Health Authority, for state assessments and enterprise-wide costs, is increased by \$3,285, for carrying out sections 1 to 8 of this 2024 Act.

SECTION 16. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (7), chapter 610, Oregon Laws 2023, for the biennium ending June 30, 2025, for intellectual/developmental disabilities programs, is increased by \$187,528 for carrying out the provisions of sections 3 to 5 this 2024 Act.

SECTION 17. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (7), chapter 610, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from federal funds, but excluding federal funds not described in section 2, chapter 610, Oregon Laws 2023, collected or received by

the Department of Human Services, for intellectual/developmental disabilities programs, is increased by \$187,528 for carrying out the provisions of sections 3 to 5 this 2024 Act.

REPEALS

SECTION 18. Section 4 of this 2024 Act is repealed on July 2, 2026.

SECTION 19. Section 8 of this 2024 Act is repealed on January 2, 2025.

CAPTIONS

SECTION 20. The unit captions used in this 2024 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

EMERGENCY CLAUSE

SECTION 21. This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

Approved by the Governor April 4, 2024
 Filed in the office of Secretary of State April 4, 2024
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