



Oregon

Kate Brown, Governor



Oregon Department of Human Services

Office of the Director

500 Summer St. NE, E-15

Salem, OR 97301

Voice: 503-945-5600

Fax: 503-581-6198

**Oregon Department of Human Services
Legislative Report on Senate Bill 669 (2019)
January 26, 2021**

Senate Bill 669 was passed during the 2019 Legislative Session. Among other requirements, it contained the following directive for the Oregon Department of Human Services:

The Department of Human Services shall develop recommendations for methods to assess and monitor home care services, as defined in ORS 410.600, provided by home care workers, as defined in ORS 410.600. The recommendations may include electronic monitoring of home care workers or on-site monitoring by case managers or services coordinators of home care workers providing care in their clients' homes. The department shall avoid any recommendations regarding assessment and monitoring that might lead to the state being deemed the legal employer of home care workers.

The Oregon Department of Human Services (ODHS) conducted a series of work groups and policy discussions as directed by Senate Bill 669. The stakeholders provided several recommendations including:

- Reviewing and implementing recommendations from the Secretary of State's (SOS) 2019 audit of the Consumer Employed Provider (CEP) program;
- Implementing the Electronic Visit Verification (EVV) component of the CURES Act;
- Modeling oversight of individual Home Care Workers (HCWs) on the oversight required of In-Home Care Agencies (IHCAs);
- Implementing SB 1534; and
- Using data to determine if there are disparities in consumer outcomes between different in-home service options; and
- Strengthening employer training.

These recommendations are discussed below.

Secretary of State Audit

The 2019 Secretary of State (SOS) audit of the Consumer Employer Program provided 11 recommendations to ensure consumers receive the required services and supports in their home. These recommendations included:

SOS Recommendation: Training case managers to better assess consumer's ability to manage in-home services.

“Assisting People to Become Independent, Healthy and Safe”

Status: APD trained all case managers on how to assess and intervene if a consumer is not managing their in-home responsibilities. APD has developed training on empowering the consumer to direct their own care as well as working with consumers and HCWs to identify potentially negative outcomes before they occur.

SOS Recommendation: Improve risk assessment and monitoring.

Status: APD implemented changes to the risk assessment process that requires more frequent direct contact for individuals determined to have a higher level of risk. It also included an IT system change to provide assurance risk-related monitoring is occurring.

SOS Recommendation: Provide training to homecare workers to identify consumers at risk.

Status: APD, through the Oregon Home Care Commission, is implementing SB 1534 with required training.

SOS Recommendation: Reduce the workload for APD/AAA case managers.

Status: APD is implementing the Integrated Eligibility (IE) system in collaboration with ODHS. This has allowed APD to remove financial eligibility determinations from case managers with the goal of allowing the case managers additional time to work with consumers and address issues. APD requested additional staff to ensure case managers have the time to perform all necessary person-centered planning activities. Unfortunately, not all the staff that was needed or requested was funded through the legislature.

Electronic Visit Verification (EVV)

As APD continually works internally to refine its program delivery model, the federal 21st Century CURES Act added requirements designed to reduced fraud in Medicaid in-home service billing in the form of EVV. EVV systems must capture the following information:

- Type of service performed;
- Individual receiving the service;
- Date of the service;
- Location of service delivery;
- Individual providing the service;
- Time the service begins and ends.

APD has developed requirements and selected a vendor to implement EVV for APD consumers and Homecare workers. APD is working with the vendor to customize the system to Oregon's programs. The EVV system will give APD an unprecedented look at where and how services are being utilized by consumers, rendered by providers, and potential gaps.

The department anticipates that by January of 2022, the entire state will be effectively utilizing an EVV system to track and monitor HCW work.

Model HCW Oversight on In-home Care Agencies (IHCA) Expectations

Another recommendation provided by one participant in the stakeholder group was to model oversight of individual HCWs on the oversight required in Oregon Administrative Rule of IHCA staff. In the current APD system, this would likely look like:

- The case manager would visit the consumer at the consumer's residence within 30 days of initiation of services to evaluate care provided by the homecare worker and assess whether the consumer's needs are being met;
- Every 90 days, the case manager would have to do an onsite monitoring visit with the consumer to determine if the homecare worker continues to provide appropriate and safe care, whether any additional training is necessary and to assess whether the needs of the consumer are being met.
- If a homecare worker is assisting with medication administration or management, APD would need to arrange, and pay, for a registered nurse to visit the consumer's home every 90 days to ensure these services are provided appropriately and safely.

In reviewing this recommendation, APD determined that it would increase the number of case managers currently *needed* by three times and cost approximately an additional \$20 Million per month or \$470 Million for the biennium. The costs and staffing would be necessary to meet the need to see consumer's in their own homes rather than via phone.

APD and many of the workgroup participants do not support this recommendation both due to the cost and because the service delivery models between HCWs and IHCA are intentionally different. Fundamentally, this concept overrides the intent of the self-directed model intended in the Homecare Worker option. APD offers multiple options that allow individuals to stay in their own home. These options go from the most independent and self-directed to those with more oversight. To be in, and stay in the self-directed models, consumers must demonstrate that they can successfully self-direct their care and maintain their health and safety. If they cannot, case managers assist those individuals in choosing other service options.

Additionally, APD has a tiered approach to assisting in-home consumers based on the consumer's assessed needs and their assessed risks. For individuals determined to have a low level of risk, case managers are required to make contact each month to ensure the individual's needs are being met. This contact can be with the individual, with family or friends or the care providers. They must also contact the individual once every quarter to ensure that the individual is managing their service plan and that there have been no changes. For individuals assessed to be at a higher risk, a case manager must make direct contact with the individual at least monthly to ensure to the extent possible that identified risks are being mitigated and their health and safety needs are being met. The risk monitoring is a key part of Oregon's safety net for in-home consumers.

This system has worked well for many decades. Anecdotally, there is no discernable difference between the care and outcomes for in-home consumers. For consumers unable to safely self-direct and manage their own in-home services, APD routinely assists them to transfer to other in-home or community-based care options.

Use of Data/Research

It was recommended that APD begin to look at data to determine if there are discrepancies between outcomes for consumers receiving services through homecare workers and those receiving services through IHCAs. Additionally, it was suggested that the data analysis determine if there are indicators that predict positive or negative outcomes by service option. APD is in the process of determining if the available data will help identify discrepancies or issues to be addressed.

Implement SB 1534

Senate Bill 1534 was passed by the Oregon Legislative Assembly in 2018. The bill directs the Department of Human Services to implement mandatory training and testing requirements for homecare and personal support workers. These new requirements are for all homecare and personal support workers who are approved to provide services and supports to individuals receiving in-home services funded through Medicaid or Oregon Project Independence.

The new requirements set standards for all homecare and personal support workers to make sure they have the skills, knowledge, and abilities to provide quality services and supports. The Oregon Home Care Commission is on track to fully implement the training requirements in fall 2021.

Strengthen Employer Resource Connection Services

The last recommendation provided by the stakeholder group was to work with the Oregon Home Care Commission to strengthen the Employer Resource Connection (ERC) program. The ERC is free for individuals who have been approved to receive in-home services through Medicaid or Oregon Project Independence. Consultants provide a variety of services such as helping consumer employers develop job descriptions, create back up plans and learn how to hire, train and manage homecare workers. All consumers are provided the “Consumer-Employer Training Guide: Being a Successful Employer” and other information sheets. The recommendation included expanding access, more intensive review of responsibilities, and more training on how to ensure quality of care. APD is reviewing ways to improve ERC referrals and services.

Conclusion

While the stakeholder workgroup could not reach consensus on all recommendations, most agreed that the in-home services provided by HCWs provide an empowering option for APD consumers who want the independence and control that comes with self-directing their own services. APD will continue to work on strategies to ensure the health and safety of consumers receiving in-home services regardless of the service option.

For more information, please contact:

Brooke Hall

Senior Legislative Policy Analyst

ODHS Aging and People with Disabilities and Office of Developmental Disabilities Services

Work: 503-983-0445

Email: brooke.m.hall@dhsosha.state.or.us