

Senate Bill 1548 Fiscal Transparency Reports

Background

In 2022, the Oregon Legislature enacted Senate Bill 1548 (SB 1548), a human services omnibus. Section 2 of the enrolled bill required the Oregon Department of Human Services (ODHS), Office of Developmental Disabilities Services (ODDS) to ensure fiscal transparency for provider agencies who deliver services to Oregonians with intellectual and developmental disabilities. Additionally, this section required ODDS to adopt new rules including criteria and processes for provider applications. This letter is focused solely on the fiscal transparency subsections of Section 2.

SB 1548, Section 2(1)(a)-(c) directed ODDS to:

- Require providers to submit annual staffing data to a reporting survey organization specified by ODDS
- Require providers to submit an annual report to ODDS that includes
 - Executive compensation and benefits
 - Starting, average, and highest direct support professional wages
 - Provider overhead expenses and expenditures
 - Any other fiscal matters prescribed by ODDS
- Ensure that wages paid to direct support professionals increase as provider rates increase

Section 2(2) specified that new reporting requirements be consolidated with existing requirements to avoid duplicative reporting to the “greatest extent practicable”.

ODDS is pleased to provide you with more information on our implementation of SB 1548 Section 2’s fiscal transparency requirements.



Tina Kotek, Governor

Supporting well-being for everyone in Oregon

Approach

For many years, ODDS has participated in the National Core Indicators State of the Workforce Survey (NCI-SotW) along with 26 other states. This survey collects key data on the direct support professional (DSP) workforce that helps states understand the makeup, strengths and needs within the DSP workforce; track changes in DSP wages over time; evaluate rate efficacy how wages compare to other states; and workforce-related effects of policy changes or strategic initiatives.

The NCI-SotW asks providers for some of the same data prescribed by SB 1548, for example, it asks for a provider's average and highest DSP wages. Given this fact, the requirements in (2)(1)(a) for participation in a staffing survey and in (2)(2) to avoid duplicative reporting, ODDS determined adding to the Oregon Supplement in the NCI-SotW was the best way to operationalize the fiscal transparency reporting described in (2)(1)(b) and track wage increases as described in (2)(1)(c). The Oregon Supplement includes questions only providers in Oregon are asked to complete as part of NCI-SotW and in the national report, these questions are excluded. Other states also used supplements to capture additional data on their workforce.

ODDS hosted a workgroup on March 3, 2023 with community partners including providers, case management entities, advocacy groups, and SEIU in inform and finalize this approach. The workgroup helped develop questions for the survey under the authority provided in SB 1548 Section 2(1)(d), "other fiscal matters prescribed by the Department". Later in the year, ODDS communicated implementation updates and instructions to providers using Director Messages and Policy Transmittals.

Oregon Supplement development

In 2022 and 2023, ODDS worked with the administrator of NCI-SotW to add questions to an Oregon supplement, built into the NCI-SotW portal and tool, that did not duplicate any of the main NCI-SotW questions. ODDS added 19 questions in total, not all of which required an answer by all respondents due to questions logic (e.g., an answer to a question would result in skipping a subsequent question that did not apply). The questions are highly specific and technical, to ensure consistency with how Internal Revenue Service defines fiscal matters and parity with existing NCI-SotW questions. It was important that ODDS' definition of what to

count as “wages” in the Oregon supplement matched exactly with NCI’s¹. The Oregon supplement collects the “lowest starting hourly wage” and the NCI-SotW main survey asks about average and highest wages. Together, they ask every question required under SB 1548 (1)(b)(A)-(D).

Rulemaking

Following a series of workgroups, ODDS convened a Rule Advisory Committee (RAC) to develop permanent rules described in SB 1548, Section 2 and other matters related to provider quality improvement. The RAC met three times in May and June 2023. The RAC was comprised of providers, SEIU staff, and advocacy organizations. Following the RAC, ODDS followed the administrative rulemaking process, including filing a Notice of Proposed Rulemaking with the Secretary of State’s Office on August 11, 2023:

<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9657577>.

ODDS held a rule hearing on September 18, 2023 and received written and verbal public comments, published in a hearing report, enclosed. Of note, SEIU’s comments suggested including all the survey questions in administrative rule. ODDS responded², indicating that the function of the rule was to compel providers to participate in the survey and to allow ODDS to levy civil penalties for non-compliance. The survey itself was the place to include detailed questions and instructions.

The relevant rule text OAR 411-323-0055 states:

(6) STAFFING SURVEY.

- (a) An agency must submit annual staffing data to a nationally standardized reporting survey organization specified by the Department.

¹The Oregon Supplement includes these instructions on “wages”: For the purposes of this question, “wages” include all reportable income paid to staff for worked hours **EXCLUDING** pay associated with non-worked hours such as paid time off, disability or medical leave, or on-call time. Include regular pay, overtime, shift differentials and other wage enhancements (e.g., bilingual stipends), and bonuses. Do not include reimbursement of expenses such as mileage or cell phones. Do not include payroll taxes or employee benefits such as contributions to health insurance or a retirement plan.

² ODDS Hearing Report, October 6, 2023, pp 19-21

(b) An agency must ensure completion of the direct support professional staffing survey by the agency's employees when required by the Department.

(7) An agency must submit an annual report to the Department that includes:

(a) A disclosure of executive compensation and benefits;

(b) A disclosure of starting, average, and highest wages for direct support professionals that are employed by, under contract with, or otherwise engaged with the agency to deliver community-based services to individuals with intellectual or developmental disabilities;

(c) A disclosure of the agency's overhead expenses and expenditures; and (d) Any other fiscal matters prescribed by the Department.

Additionally, 411-323-0075 states:

(1) In addition to any other liability or penalty, the Department may impose a civil penalty for a violation in accordance with ORS 427.900 when, after being notified of the violation, an agency does not come into compliance within the time frame specified by the Department. Violations that may result in a civil penalty are limited to:

(d) Failure to complete the staffing survey as required by OAR 411-323- 0055(6) or the report required by OAR 411-323-0055(7).

The final permanent rules were filed with Secretary of State on September 30, 2023 with an October 1, 2023 effective date.

Implementation

The updated Oregon Supplement was launched in February 2024 for reporting year 2023, following the permanent rulemaking.

Fiscal transparency reports for reporting year 2024 were due April 30, 2025. ODDS received raw data from the Oregon Supplement in September 2025 and the national survey data in December, 2025. The results of this survey are enclosed.

ODDS issues Civil Penalties to providers who do not complete the survey. For the 2024 survey, 52 Oregon providers did not complete the survey. ODDS issued a \$250 Civil Penalty to each provider who did not complete the survey, totaling \$13,000.

Challenges

Fiscal transparency and provider quality are top priorities for ODDS. However, implementation of new requirements does not come without challenges. ODDS has experienced significant turnover since the passage of SB 1548, including its entire executive leadership team. Additionally, federal-level legislation has strained resources and priorities. The first reporting year was especially challenging as it was a new process for both providers and ODDS alongside competing wage-related survey efforts.

There are also data challenges. Specifically, we have identified the following challenges:

- Within the survey tool, some questions can be skipped by respondents
- Within the survey tool, a respondent can answer a question with no character restrictions when the answer should include numbers only
- A provider can appear to have completed the survey without answering every applicable question
- ODDS cannot see the individual provider responses until the survey has closed, only whether a provider has completed the survey
- The questions are highly technical and many providers struggle to follow the instructions-there is a high user error rate in responses
- Other, similar work related to provider financial health has taken more time and resources to stand up than anticipated.

. To rectify these issues, ODDS has already begun:

- Working with NCI administrators on survey tool corrections. This year, the survey will restrict characters as appropriate.
 - A significant overhaul is in the works that will be effective for next year's survey to address skipped questions, visibility to responses, and more rapid access to raw data.
- Offering more provider training on the Oregon Supplement to reduce user error

- Process mapping internal staff responsibilities for receiving, verifying as needed, and compiling NCI-SotW Oregon Supplement data into an accessible, publicly available report and prioritization of NCI-SotW above other provider financial health responsibilities.

Conclusion

ODDS remains wholly committed to improving transparency and ensuring rates paid to providers lead to good lives for Oregonians with intellectual and developmental disabilities and living wages for the workers who support them. Thank you for your interest and advocacy.