

B-Engrossed
House Bill 3108

Ordered by the House July 28
Including House Amendments dated May 17 and July 28

Sponsored by Representative TOMEI (at the request of Beckie Child)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Defines "general assistance" and "medical assistance" for purposes of claims against estate of deceased recipient.]

Directs Department of Human Services to adopt rules establishing timelines for payment of health services under medical assistance provisions.

Specifies that rules adopted by department establish timelines for executing prepaid managed care health services contracts for health services funded by Legislative Assembly.

[Provides that person receiving mental health or developmental disability services has right to be informed that family member has contacted department to determine location of person and to be informed of name and contact information, if known, of family member. Directs department to establish process to implement reconnection of family members.]

Modifies reimbursement requirements for rural hospitals under medical assistance program.

Directs Department of Human Services to adopt rules implementing health services provided under medical assistance program funded in legislatively adopted budget.

Directs Department of Human Services to establish program regulating cross connections and backflow assemblies that are part of water system. Authorizes department to assess annual fee on community water systems for program.

Declares emergency, effective [July 1, 2005] on passage.

A BILL FOR AN ACT

1
2 Relating to human services; creating new provisions; amending ORS 414.065, 414.725, 414.727 and
3 448.279; repealing ORS 442.525; and declaring an emergency.

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

5 **SECTION 1.** ORS 414.065 is amended to read:

6 414.065. (1)(a) With respect to medical and remedial care and services to be provided in medical
7 assistance during any period, and within the limits of funds available therefor, the Department of
8 Human Services shall determine, subject to such revisions as it may make from time to time and
9 with respect to the "health services" defined in ORS 414.705, subject to legislative funding in re-
10 sponse to the report of the Health Services Commission **and paragraph (b) of this subsection:**

11 [(a)] **(A)** The types and extent of medical and remedial care and services to be provided to each
12 eligible group of recipients of medical assistance.

13 [(b)] **(B)** Standards to be observed in the provision of medical and remedial care and services.

14 [(c)] **(C)** The number of days of medical and remedial care and services toward the cost of which
15 public assistance funds will be expended in the care of any person.

16 [(d)] **(D)** Reasonable fees, charges and daily rates to which public assistance funds will be ap-
17 plied toward meeting the costs of providing medical and remedial care and services to an applicant
18 or recipient.

19 [(e)] **(E)** Reasonable fees for professional medical and dental services which may be based on

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 usual and customary fees in the locality for similar services.

2 [(f)] (F) The amount and application of any copayment or other similar cost-sharing payment
3 that the department may require a recipient to pay toward the cost of medical and remedial care
4 or services.

5 (b) **Notwithstanding ORS 414.720 (8), the department shall adopt rules establishing**
6 **timelines for payment of health services under paragraph (a) of this subsection.**

7 (2) The types and extent of medical and remedial care and services and the amounts to be paid
8 in meeting the costs thereof, as determined and fixed by the department and within the limits of
9 funds available therefor, shall be the total available for medical assistance and payments for such
10 medical assistance shall be the total amounts from public assistance funds available to providers of
11 medical and remedial care and services in meeting the costs thereof.

12 (3) Except for payments under a cost-sharing plan, payments made by the department for medical
13 assistance shall constitute payment in full for all medical and remedial care and services for which
14 such payments of medical assistance were made.

15 (4) Medical benefits, standards and limits established pursuant to subsection [(1)(a), (b) and (c)]
16 (1)(a)(A), (B) and (C) of this section for the eligible medically needy, except for the aged served
17 under ORS chapter 413 and for the blind and disabled served under ORS chapter 412, may be less
18 but shall not exceed medical benefits, standards and limits established for the eligible categorically
19 needy, except that, in the case of a research and demonstration project entered into under ORS
20 411.135, medical benefits, standards and limits for the eligible medically needy may exceed those
21 established for specific eligible groups of the categorically needy.

22 [(5) Notwithstanding the provisions of this section, the department shall cause Type A hospitals,
23 Type B hospitals and rural critical access hospitals, as described in ORS 442.470, identified by the
24 Office of Rural Health as rural hospitals to be reimbursed for the cost of covered services as follows:]

25 [(a) For services provided to persons entitled to receive medical assistance, based on the Medicare
26 determination of reasonable cost as derived from the Hospital and Hospital Health Care Complex Cost
27 Report, referred to as the Medicare Report.]

28 [(b) In accordance with the terms of the agreement for services provided to persons whose medical
29 assistance benefits are administered by the contracting health care provider under an agreement be-
30 tween the hospital and a health care provider contracting with the Department of Human Services un-
31 der ORS 414.725 (1) for reimbursement other than that specified by ORS 414.727 (1). Hospitals
32 reimbursed under the terms of this paragraph are entitled to no additional reimbursement for services
33 provided.]

34 [(c) Hospitals that have been reimbursed by health care providers contracting with the Department
35 of Human Services under ORS 414.725 (1) in accordance with ORS 414.727 (1), are entitled to full re-
36 imbursement from the department for the cost of covered services provided to persons whose medical
37 assistance benefits are administered by the contracting health care provider according to paragraph (a)
38 of this subsection.]

39 **SECTION 2.** ORS 414.727 is amended to read:

40 414.727. (1) A [health care provider] **prepaid managed care health services organization, as**
41 **defined in ORS 414.736**, that contracts with the Department of Human Services under ORS 414.725
42 (1) to provide prepaid managed care health services, **including hospital services**, shall reimburse
43 Type A and Type B hospitals **and rural critical access hospitals**, as [defined] **described** in ORS
44 442.470 and identified by the Office of Rural Health as rural hospitals, fully for the cost of covered
45 services based on the cost-to-charge ratio used for each hospital in setting the capitation rates paid

1 to the *[contracting health care provider]* **prepaid managed care health services organization** for
2 the contract period.

3 **(2) The department shall base the capitation rates described in subsection (1) of this**
4 **section on the most recent audited Medicare cost report for Oregon hospitals adjusted to**
5 **reflect the Medicaid mix of services.**

6 *[(2)]* **(3) [Nothing in]** This section *[shall]* **may not** be construed to prohibit a *[health care*
7 *provider]* **prepaid managed care health services organization** and a hospital from mutually
8 agreeing to reimbursement other than the reimbursement specified in subsection (1) of this section.

9 **(4) Hospitals reimbursed under subsection (1) of this section are not entitled to any ad-**
10 **ditional reimbursement for services provided.**

11 **SECTION 3. Section 4 of this 2005 Act is added to and made a part of ORS 414.705 to**
12 **414.750.**

13 **SECTION 4. For services provided to persons who are entitled to receive medical assist-**
14 **ance and whose medical assistance benefits are not administered by a prepaid managed care**
15 **health services organization, as defined in ORS 414.736, the Department of Human Services**
16 **shall reimburse Type A and Type B hospitals and rural critical access hospitals, as described**
17 **in ORS 442.470 and identified by the Office of Rural Health as rural hospitals, fully for the**
18 **cost of covered services based on the most recent audited Medicare cost report for Oregon**
19 **hospitals adjusted to reflect the Medicaid mix of services.**

20 **SECTION 5. ORS 442.525 is repealed.**

21 **SECTION 6. The amendments to ORS 414.065 and 414.727 by sections 1 and 2 of this 2005**
22 **Act apply to reimbursement for the cost of covered services provided to a Type A or Type**
23 **B hospital or a rural critical access hospital by a prepaid managed care health services or-**
24 **ganization on or after August 13, 2003.**

25 **SECTION 7. Section 4 of this 2005 Act applies to reimbursement for the cost of covered**
26 **services provided to a Type A or Type B hospital or a rural critical access hospital by the**
27 **Department of Human Services on or after the effective date of this 2005 Act.**

28 **SECTION 8. ORS 414.725, as amended by section 277, chapter 794, Oregon Laws 2003, is**
29 **amended to read:**

30 414.725. (1)(a) Pursuant to rules adopted by the Department of Human Services, the department
31 shall execute prepaid managed care health services contracts for health services funded by the
32 Legislative Assembly. The contract must require that all services are provided to the extent and
33 scope of the Health Services Commission's report for each service provided under the contract.
34 *[Such]* **The contracts are not subject to ORS chapters 279A and 279B, except ORS 279A.250 to**
35 **279A.290 and 279B.235. Notwithstanding ORS 414.720 (8), the rules adopted by the department**
36 **shall establish timelines for executing the contracts described in this paragraph.**

37 (b) It is the intent of ORS 414.705 to 414.750 that the state use, to the greatest extent possible,
38 prepaid managed care health services organizations to provide physical health, dental, mental health
39 and chemical dependency services under ORS 414.705 to 414.750.

40 (c) The department shall solicit qualified providers or plans to be reimbursed for providing the
41 covered services. The contracts may be with hospitals and medical organizations, health mainte-
42 nance organizations, managed health care plans and any other qualified public or private prepaid
43 managed care health services organization. The department may not discriminate against any con-
44 tractors that offer services within their providers' lawful scopes of practice.

45 (2) The department may institute a fee-for-service case management system or a fee-for-service

1 payment system for the same physical health, dental, mental health or chemical dependency services
2 provided under the health services contracts for persons eligible for health services under ORS
3 414.705 to 414.750 in designated areas of the state in which a prepaid managed care health services
4 organization is not able to assign an enrollee to a person or entity that is primarily responsible for
5 coordinating the physical health, dental, mental health or chemical dependency services provided to
6 the enrollee. In addition, the department may make other special arrangements as necessary to in-
7 crease the interest of providers in participation in the state's managed care system, including but
8 not limited to the provision of stop-loss insurance for providers wishing to limit the amount of risk
9 they wish to underwrite.

10 (3) As provided in subsections (1) and (2) of this section, the aggregate expenditures by the de-
11 partment for health services provided pursuant to ORS 414.705 to 414.750 may not exceed the total
12 dollars appropriated for health services under ORS 414.705 to 414.750.

13 (4) Actions taken by providers, potential providers, contractors and bidders in specific accord-
14 ance with ORS 414.705 to 414.750 in forming consortiums or in otherwise entering into contracts to
15 provide health care services shall be performed pursuant to state supervision and shall be consid-
16 ered to be conducted at the direction of this state, shall be considered to be lawful trade practices
17 and may not be considered to be the transaction of insurance for purposes of the Insurance Code.

18 (5) Health care providers contracting to provide services under ORS 414.705 to 414.750 shall
19 advise a patient of any service, treatment or test that is medically necessary but not covered under
20 the contract if an ordinarily careful practitioner in the same or similar community would do so un-
21 der the same or similar circumstances.

22 (6) A prepaid managed care health services organization shall provide information on contacting
23 available providers to an enrollee in writing within 30 days of assignment to the health services
24 organization.

25 (7) Each prepaid managed care health services organization shall provide upon the request of
26 an enrollee or prospective enrollee annual summaries of the organization's aggregate data regarding:

- 27 (a) Grievances and appeals; and
- 28 (b) Availability and accessibility of services provided to enrollees.

29 (8) A prepaid managed care health services organization may not limit enrollment in a desig-
30 nated area based on the zip code of an enrollee or prospective enrollee.

31 **SECTION 9. (1) In accordance with ORS 414.707 (6), the Department of Human Services**
32 **is directed to adopt rules implementing the adjustment of health services funded under ORS**
33 **414.705 (1) in the legislatively adopted budget for the department for the 2005-2007 biennium.**

34 **(2) No later than 60 days after the effective date of this 2005 Act, the department shall**
35 **apply for approval from the Centers for Medicare and Medicaid Services to reduce the health**
36 **services to be offered under ORS 414.705 as described in subsection (1) of this section.**

37 **(3) The department shall adopt rules implementing subsection (1) of this section as soon**
38 **as practicable after receipt of the necessary approvals.**

39 **SECTION 10. Section 11 of this 2005 Act is added to and made a part of ORS 448.119 to**
40 **448.285.**

41 **SECTION 11. (1) The Department of Human Services shall establish a program for regu-**
42 **lating cross connections and the backflow assemblies that are part of a water system.**

43 **(2) The department may assess an annual fee on community water systems for the pur-**
44 **pose of implementing the cross connection and backflow assembly program established pur-**
45 **suant to this section. The fee may not exceed:**

- 1 (a) **\$30 for a water system that has 15 to 99 service connections;**
- 2 (b) **\$75 for a water system that has 100 to 999 service connections;**
- 3 (c) **\$200 for a water system that has 1,000 to 9,999 service connections; or**
- 4 (d) **\$350 for a water system that has 10,000 or more service connections.**

5 **SECTION 12.** ORS 448.279 is amended to read:

6 448.279. (1) The Department of Human Services by rule shall establish a certification program
7 for persons who inspect cross connections or test backflow [*prevention device*] assemblies. The pro-
8 gram shall include minimum qualifications necessary for a person to be certified to:

- 9 (a) Conduct a cross connection inspection; and
- 10 (b) Test a backflow [*prevention device*] assembly.

11 (2) Except for an employee of a water supplier as defined in ORS 448.115, a person certified
12 under this section shall:

- 13 (a) Become licensed as a construction contractor with the Construction Contractors Board as
14 provided under ORS chapter 701; or
- 15 (b) Become licensed as a landscape contractor as provided under ORS 671.510 to 671.710.

16 (3) In conjunction with the certification program established under subsection (1) of this section,
17 the department may establish and collect a fee from an individual requesting certification under the
18 program. A fee imposed under this subsection shall:

- 19 (a) Not be refundable; and
- 20 (b) Not exceed the cost of administering the certification program of the department for which
21 purpose the fee is established, as authorized by the Legislative Assembly within the budget of the
22 department and as the budget may be modified by the Emergency Board.

23 (4) All moneys collected by the department under this section shall be deposited in the General
24 Fund to the credit of an account of the department. Such moneys are continuously appropriated to
25 the department to pay the cost of administering the certification program established pursuant to
26 [*subsections (1) and (3) of*] this section **and the cost of administering water system cross con-**
27 **nection and backflow assembly programs.**

28 **SECTION 13. This 2005 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
30 **on its passage.**

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