

Enrolled House Bill 3108

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 414.065 is amended to read:

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

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

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

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

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

[(e)] (E) Reasonable fees for professional medical and dental services which may be based on usual and customary fees in the locality for similar services.

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

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

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

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

(4) Medical benefits, standards and limits established pursuant to subsection [(1)(a), (b) and (c)] **(1)(a)(A), (B) and (C)** of this section for the eligible medically needy, except for the aged served

under ORS chapter 413 and for the blind and disabled served under ORS chapter 412, may be less but shall not exceed medical benefits, standards and limits established for the eligible categorically needy, except that, in the case of a research and demonstration project entered into under ORS 411.135, medical benefits, standards and limits for the eligible medically needy may exceed those established for specific eligible groups of the categorically needy.

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

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

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

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

SECTION 2. ORS 414.727 is amended to read:

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

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

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

(4) Hospitals reimbursed under subsection (1) of this section are not entitled to any additional reimbursement for services provided.

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

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

SECTION 5. ORS 442.525 is repealed.

SECTION 6. The amendments to ORS 414.065 and 414.727 by sections 1 and 2 of this 2005 Act apply to reimbursement for the cost of covered services provided to a Type A or Type

B hospital or a rural critical access hospital by a prepaid managed care health services organization on or after August 13, 2003.

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

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

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

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

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

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

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

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

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

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

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

(a) Grievances and appeals; and

(b) Availability and accessibility of services provided to enrollees.

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

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

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

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

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

SECTION 11. (1) The Department of Human Services shall establish a program for regulating cross connections and the backflow assemblies that are part of a water system.

(2) The department may assess an annual fee on community water systems for the purpose of implementing the cross connection and backflow assembly program established pursuant to this section. The fee may not exceed:

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

SECTION 12. ORS 448.279 is amended to read:

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

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

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

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

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

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

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

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

Passed by House July 29, 2005

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate August 4, 2005

.....
President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2005

.....
Secretary of State