

A-Engrossed
Senate Bill 776

Ordered by the Senate April 7
Including Senate Amendments dated April 7

Sponsored by Senator MORRISETTE

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.

Modifies ombudsman services for persons receiving medical assistance. Establishes Office of Health Plan Ombudsman in Department of Human Services. **Establishes Health Plan Ombudsman Advisory Council.**

Declares emergency, effective July 1, 2005.

A BILL FOR AN ACT

1
2 Relating to ombudsman services for persons receiving medical assistance; creating new provisions;
3 amending ORS 414.712; and declaring an emergency.

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

5 **SECTION 1.** ORS 414.712 is amended to read:

6 414.712. (1) The Department of Human Services shall provide medical assistance under ORS
7 414.705 to 414.750 to eligible persons who are aged and described in ORS chapter 413 or who are
8 blind or disabled and described in ORS chapter 412 and to children described in ORS 414.025 (2)(f),
9 (i), (j), (k) and (m), 418.001 to 418.034, 418.189 to 418.970 and 657A.020 to 657A.460 and those mental
10 health and chemical dependency services recommended according to standards of medical assistance
11 and according to the schedule of implementation established by the Legislative Assembly.

12 (2) In providing medical assistance [*services described in ORS 414.018 to 414.024, 414.042,*
13 *414.107, 414.710, 414.720 and 735.712*] **under ORS 414.705 to 414.750**, the Department of Human
14 Services shall also provide the following:

15 [(1)] (a) Ombudsman services **as described in section 4 of this 2005 Act** for [*eligible*] persons
16 who are **receiving medical assistance under ORS 414.705 to 414.750**. [*aged and described in ORS*
17 *chapter 413 or who are blind or disabled and described in ORS chapter 412. With the concurrence of*
18 *the Governor, the Director of Human Services shall appoint ombudsmen and may terminate an om-*
19 *budsman. Ombudsmen are under the supervision and control of the director. An ombudsman shall*
20 *serve as a patient's advocate whenever the patient or a physician or other medical personnel serving*
21 *the patient is reasonably concerned about access to, quality of or limitations on the care being provided*
22 *by a health care provider. Patients shall be informed of the availability of an ombudsman. Ombudsmen*
23 *shall report to the Governor in writing at least once each quarter. A report shall include a summary*
24 *of the services that the ombudsman provided during the quarter and the ombudsman's recommendations*
25 *for improving ombudsman services and access to or quality of care provided to eligible persons by*
26 *health care providers.*]

27 [(2)] (b) Case management services in each [*health care provider organization*] **prepaid managed**

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 **care health services organization as defined in ORS 414.736** for those eligible persons who are
2 aged and described in ORS chapter 413 or who are blind or disabled and described in ORS chapter
3 412. Case managers shall be trained in and shall exhibit skills in communication with and sensitivity
4 to the unique health care needs of people who are elderly and those with disabilities. Case managers
5 shall be reasonably available to assist patients served by the organization with the coordination of
6 the patient's health care services at the reasonable request of the patient or a physician or other
7 medical personnel serving the patient. Patients shall be informed of the availability of case manag-
8 ers.

9 [(3)] (c) A mechanism, established by rule, for soliciting consumer opinions and concerns re-
10 garding accessibility to and quality of the services of each health care provider.

11 [(4)] (d) A choice of available medical plans and, within those plans, choice of a primary care
12 provider.

13 [(5)] (e) Due process procedures for any individual whose request for medical assistance cover-
14 age for any treatment or service is denied or is not acted upon with reasonable promptness. These
15 procedures shall include an expedited process for cases in which a patient's medical needs require
16 swift resolution of a dispute.

17 **SECTION 2. Sections 3 and 4 of this 2005 Act are added to and made a part of ORS**
18 **chapter 414.**

19 **SECTION 3. As used in section 4 of this 2005 Act:**

20 (1) "Fully capitated health plan" has the meaning given that term in ORS 414.736.

21 (2) "Prepaid managed care health services organization" has the meaning given that term
22 in ORS 414.736.

23 **SECTION 4. (1) The Office of the Health Plan Ombudsman is established in the Depart-**
24 **ment of Human Services. The office is under the supervision and control of the Health Plan**
25 **Ombudsman, who is responsible for the performance of the duties, functions and powers of**
26 **the office. The Governor shall appoint the Health Plan Ombudsman.**

27 (2) The Office of the Health Plan Ombudsman shall maintain a state toll-free telephone
28 line to:

29 (a) Allow persons to voice complaints regarding the actions and conduct of the organ-
30 izational unit within the department responsible for the administration of the state medical
31 assistance program, fully capitated health plans and prepaid managed care health services
32 organizations.

33 (b) Have a single place to file complaints concerning access to, quality of or limitations
34 on the care or services being provided by the organizational unit within the department re-
35 sponsible for the administration of the state medical assistance program or a fully capitated
36 health plan or prepaid managed care health services organization.

37 (3) The Health Plan Ombudsman shall:

38 (a) Investigate and resolve complaints made by or for persons receiving medical assist-
39 ance under ORS 414.705 to 414.750 from the organizational unit within the department re-
40 sponsible for the administration of the state medical assistance program or a fully capitated
41 health plan or prepaid managed care health services organization. The ombudsman shall de-
42 termine whether a complaint is substantiated and issue findings and recommendations re-
43 garding further action.

44 (b) Serve as a person's advocate whenever the person or a physician or other personnel
45 serving the person is reasonably concerned about access to, quality of or limitations on the

1 care or services being provided by the organizational unit within the department responsible
2 for the administration of the state medical assistance program or a fully capitated health
3 plan or prepaid managed care health services organization to the person.

4 (c) Ensure that persons who are receiving medical assistance are informed of the avail-
5 ability of ombudsman services.

6 (4) The Office of the Health Plan Ombudsman shall establish procedures to maintain the
7 confidentiality of the records and files of persons receiving ombudsman services. The proce-
8 dures must meet the following requirements:

9 (a) The Health Plan Ombudsman may not disclose, except to state agencies, the identity
10 of any person unless the complainant or the person, or the legal representative of the per-
11 son, consents in writing to the disclosure and specifies to whom the disclosure may be made.

12 (b) The identity of any complainant or person on whose behalf a complaint is made, or
13 person providing information on behalf of the person or complainant, shall be confidential.

14 (5) The Health Plan Ombudsman shall report quarterly to the Director of Human Ser-
15 vices and the Health Plan Ombudsman Advisory Council. The report shall be available to the
16 public and shall include but need not be limited to:

17 (a) A summary of the complaints filed with the office;

18 (b) A summary of the services provided by the office;

19 (c) A list of the fully capitated health plans and prepaid managed care health services
20 organizations against whom complaints were filed and the nature of the complaints;

21 (d) Information on the resolution of complaints, including the number of substantiated
22 complaints and patterns and trends in the nature of the complaints; and

23 (e) Recommendations for contract modifications for organizations listed under paragraph
24 (c) of this subsection.

25 (6) A person who files a complaint under this section or who participates in any investi-
26 gation under this section may not be, because of that action:

27 (a) Subject to any penalties, sanctions or restrictions imposed by the department;

28 (b) Subject to any penalties, sanctions or restrictions connected with the person's em-
29 ployment; or

30 (c) Denied any right, privilege or benefit.

31 (7) The Health Plan Ombudsman may hire staff to carry out the duties, functions and
32 powers of the office.

33 **SECTION 5.** (1) The Health Plan Ombudsman Advisory Council is established consisting
34 of 14 members appointed as follows:

35 (a) The President of the Senate shall appoint one member from among members of the
36 Senate.

37 (b) The Speaker of the House of Representatives shall appoint one member from among
38 members of the House of Representatives.

39 (c) The Governor shall appoint the following members:

40 (A) Seven persons who are enrolled in fully capitated health plans or prepaid managed
41 care health services organizations both as defined in ORS 414.736;

42 (B) One person representing the Governor's Commission on Senior Services;

43 (C) One person representing the Oregon Disabilities Commission;

44 (D) One person representing area agencies on aging;

45 (E) One person from the Department of Human Services; and

1 (F) One person from the Office of the Long Term Care Ombudsman.

2 (2) The purpose of the advisory council is to advise the Health Plan Ombudsman on car-
3 rying out the duties and functions of the office.

4 (3) A majority of the advisory council constitutes a quorum for the transaction of busi-
5 ness.

6 (4) Official action by the advisory council requires the approval of a majority of the
7 members of the advisory council.

8 (5) The advisory council shall elect one of its members to serve as chairperson.

9 (6) The term of office of a member is three years beginning on July 1 of the year of ap-
10 pointment. A member shall continue to serve until a successor has been appointed and
11 qualifies.

12 (7) If there is a vacancy for any cause, the appointing authority shall make an appoint-
13 ment to become immediately effective.

14 (8) The advisory council shall meet at times and places specified by the call of the
15 chairperson or of a majority of the members of the advisory council.

16 (9) The advisory council may adopt rules necessary for the operation of the advisory
17 council.

18 (10) Members of the advisory council are entitled to compensation or reimbursement for
19 expenses as provided in ORS 292.495 from funds available to the Office of the Health Plan
20 Ombudsman.

21 (11) All agencies of state government, as defined in ORS 174.111, and fully capitated
22 health plans and prepaid managed care health services organizations are directed to assist
23 the advisory council in the performance of its duties and, to the extent permitted by laws
24 relating to confidentiality, to furnish such information and advice as the members of the
25 advisory council consider necessary to perform their duties.

26 (12) No later than July 1 of each year, the advisory council shall report to the Governor
27 and the Department of Human Services on its findings and recommendations regarding the
28 fully capitated health plans and prepaid managed care health services organizations with
29 which the department is contracting for care and services.

30 **SECTION 6.** This 2005 Act being necessary for the immediate preservation of the public
31 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
32 July 1, 2005.