

CONFERENCE COMMITTEE AMENDMENTS TO B-ENGROSSED SENATE BILL 782

July 18

Amended Summary

Requires Department of Human Services to inform former recipients of public assistance who have been terminated from programs due to ineligibility or termination of program that former recipient may reapply if circumstances affecting eligibility change. Applies only to notices of termination that are revised or developed by department on or after effective date of Act.

Directs department to apply to Centers for Medicare and Medicaid Services for approval to exempt certain medical assistance recipients from payment of monthly premiums. Requires department to adopt rules implementing exemption after receipt of approval.

Directs department to apply to Centers for Medicare and Medicaid Services for approval to grant certain medical assistance recipients who are not exempt from requirement to pay monthly premiums grace period for payment of overdue premiums and to allow reapplication for medical assistance as soon as overdue payments are paid in full. Requires department to adopt rules implementing provisions after receipt of approval.

Allows department to pay for brand name drug under medical assistance program under certain circumstances.

Declares emergency, effective on passage.

President Courtney:

Your Conference Committee to whom was referred B-engrossed Senate Bill 782, having had the same under consideration, respectfully reports it back with the recommendation that the Senate concur in the House amendments dated June 27 and that the bill be amended as follows and re-passed.

1 On page 1 of the printed B-engrossed bill, line 2, after "assistance;" insert "creating new provisions; amending ORS 414.325;".

2
3 Delete lines 14 through 21 and delete page 2 and insert:

4 **"SECTION 4. Notwithstanding ORS 414.065, the Department of Human Services shall**
5 **adopt rules exempting recipients of medical assistance under ORS 414.706 (5) whose family**
6 **income is no more than 10 percent of the federal poverty guidelines, as defined in ORS**
7 **414.340, from the requirement to pay monthly premium payments.**

8 **"SECTION 5. (1) No later than 30 days after the effective date of this 2005 Act, the De-**
9 **partment of Human Services shall apply for approval from the Centers for Medicare and**
10 **Medicaid Services to exempt recipients of medical assistance under ORS 414.706 (5) whose**
11 **family income is no more than 10 percent of the federal poverty guidelines, as defined in ORS**
12 **414.340, from the requirement to pay monthly premium payments.**

13 **"(2) The department shall adopt rules implementing section 4 of this 2005 Act as soon as**
14 **practicable after receipt of the necessary approval.**

15 **"SECTION 6. (1) The Department of Human Services shall adopt rules:**

16 **"(a) Requiring recipients of medical assistance who are not otherwise exempt to pay**
17 **monthly premium payments while receiving medical assistance; and**

18 **"(b) Granting recipients of medical assistance under ORS 414.706 (5) who are required to**
19 **pay monthly premium payments a grace period of up to six months for payment of overdue**

1 premiums.

2 “(2) The department may not disenroll a recipient during the grace period described in
3 subsection (1)(b) of this section.

4 “(3) A recipient or former recipient of medical assistance under ORS 414.706 (5) who did
5 not pay one or more monthly premium payments while receiving medical assistance is not
6 eligible to reapply for medical assistance under ORS 414.706 (5) until the recipient or former
7 recipient has paid the amount of overdue premiums in full.

8 “SECTION 7. (1) No later than 30 days after the effective date of this 2005 Act, the De-
9 partment of Human Services shall apply for approval from the Centers for Medicare and
10 Medicaid Services to implement section 6 of this 2005 Act.

11 “(2) The department shall adopt rules implementing section 6 of this 2005 Act as soon as
12 practicable after receipt of the necessary approval.

13 “SECTION 8. ORS 414.325 is amended to read:

14 “414.325. (1) As used in this section, ‘legend drug’ means any drug requiring a prescription by
15 a practitioner, as defined in ORS 689.005.

16 “(2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in
17 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the
18 patient in the practitioner’s care and within the scope of practice. Prescriptions shall be dispensed
19 in the generic form pursuant to ORS 689.515 and pursuant to rules of the Department of Human
20 Services unless the practitioner prescribes otherwise and an exception is granted by the department.

21 “(3) The department shall pay only for drugs in the generic form if the federal Food and Drug
22 Administration has approved a generic version of a particular brand name drug that is chemically
23 identical to the brand name drug according to federal Food and Drug Administration rating stan-
24 dards, unless an exception has been granted by the department.

25 “(4) An exception must be applied for and granted before the department is required to pay for
26 minor tranquilizers and amphetamines and amphetamine derivatives, as defined by rule of the de-
27 partment.

28 “(5) Notwithstanding subsections (1) to (4) of this section, the department is authorized to:

29 “(a) Withhold payment for a legend drug when federal financial participation is not available;
30 and

31 “(b) Require prior authorization of payment for drugs that the department has determined should
32 be limited to those conditions generally recognized as appropriate by the medical profession.

33 “(6) Notwithstanding subsection (3) of this section, the department may not limit legend drugs
34 when used as approved by the federal Food and Drug Administration to treat mental illness, HIV
35 and AIDS, and cancer.

36 “(7)(a) The department shall pay a rural health clinic for a legend drug prescribed and dispensed
37 under this chapter by a licensed practitioner at the rural health clinic for an urgent medical con-
38 dition if:

39 “(A) There is not a pharmacy within 15 miles of the clinic;

40 “(B) The prescription is dispensed for a patient outside of the normal business hours of any
41 pharmacy within 15 miles of the clinic; or

42 “(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

43 “(b) As used in this subsection, ‘urgent medical condition’ means a medical condition that arises
44 suddenly, is not life-threatening and requires prompt treatment to avoid the development of more
45 serious medical problems.

1 “(8) Notwithstanding ORS 414.334, the department may conduct prospective drug utilization re-
2 view prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the
3 preceding six-month period.

4 “(9) **Notwithstanding subsection (3) of this section, the department may pay a pharmacy**
5 **for a particular brand name drug rather than the generic version of the drug after notifying**
6 **the pharmacy that the cost of the particular brand name drug, after receiving discounted**
7 **prices and rebates, is equal to or less than the cost of the generic version of the drug.**

8 “**SECTION 9.** ORS 414.325, as amended by section 6, chapter 897, Oregon Laws 2001, section
9 191, chapter 14, Oregon Laws 2003, section 2, chapter 91, Oregon Laws 2003, and section 21, chapter
10 810, Oregon Laws 2003, is amended to read:

11 “414.325. (1) As used in this section, ‘legend drug’ means any drug requiring a prescription by
12 a practitioner, as defined in ORS 689.005.

13 “(2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in
14 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the
15 patient in the practitioner’s care and within the scope of practice. Prescriptions shall be dispensed
16 in the generic form pursuant to ORS 689.515 and pursuant to rules of the Department of Human
17 Services unless the practitioner prescribes otherwise and an exception is granted by the department.

18 “(3) Except as provided in subsections (4) and (5) of this section, the department shall place no
19 limit on the type of legend drug that may be prescribed by a practitioner, but the department shall
20 pay only for drugs in the generic form unless an exception has been granted by the department.

21 “(4) Notwithstanding subsection (3) of this section, an exception must be applied for and granted
22 before the department is required to pay for minor tranquilizers and amphetamines and amphetamine
23 derivatives, as defined by rule of the department.

24 “(5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph
25 (b) of this subsection, the department is authorized to:

26 “(A) Withhold payment for a legend drug when federal financial participation is not available;
27 and

28 “(B) Require prior authorization of payment for drugs that the department has determined
29 should be limited to those conditions generally recognized as appropriate by the medical profession.

30 “(b) The department may not require prior authorization for therapeutic classes of non-sedating
31 antihistamines and nasal inhalers, as defined by rule by the department, when prescribed by an
32 allergist for treatment of any of the following conditions, as described by the Health Services Com-
33 mission on the funded portion of its prioritized list of services:

34 “(A) Asthma;

35 “(B) Sinusitis;

36 “(C) Rhinitis; or

37 “(D) Allergies.

38 “(6)(a) The department shall pay a rural health clinic for a legend drug prescribed and dispensed
39 under this chapter by a licensed practitioner at the rural health clinic for an urgent medical con-
40 dition if:

41 “(A) There is not a pharmacy within 15 miles of the clinic;

42 “(B) The prescription is dispensed for a patient outside of the normal business hours of any
43 pharmacy within 15 miles of the clinic; or

44 “(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

45 “(b) As used in this subsection, ‘urgent medical condition’ means a medical condition that arises

1 suddenly, is not life-threatening and requires prompt treatment to avoid the development of more
2 serious medical problems.

3 “(7) Notwithstanding ORS 414.334, the department may conduct prospective drug utilization re-
4 view prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the
5 preceding six-month period.

6 “(8) **Notwithstanding subsection (3) of this section, the department may pay a pharmacy**
7 **for a particular brand name drug rather than the generic version of the drug after notifying**
8 **the pharmacy that the cost of the particular brand name drug, after receiving discounted**
9 **prices and rebates, is equal to or less than the cost of the generic version of the drug.**

10 “**SECTION 10. This 2005 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
12 **on its passage.”.**

13 /s/ Bill Morrisette
14 Senator

15 /s/ Jeff Kruse
16 Senator

17 /s/ Laurie Monnes Anderson
18 Senator

19 /s/ Deborah Boone
20 Representative

21 /s/ Tom Butler
22 Representative

23 /s/ Billy Dalto
24 Representative
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