

# Enrolled Senate Bill 782

Sponsored by Senator MORRISETTE, Representatives DALTO, GREENLICK (at the request of Lee Hazelwood)

CHAPTER .....

AN ACT

Relating to public assistance; creating new provisions; amending ORS 414.325; and declaring an emergency.

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

**SECTION 1.** Sections 2, 4 and 6 of this 2005 Act are added to and made a part of ORS chapter 411.

**SECTION 2.** When the Department of Human Services terminates a grant of public assistance due to the ineligibility of a recipient or the termination of a public assistance program, the department shall include in the notice of termination a statement indicating that if circumstances affecting the eligibility of the recipient change, the recipient may contact the department and reapply for public assistance.

**SECTION 3.** Section 2 of this 2005 Act applies only to notices of termination that are revised or developed by the Department of Human Services on or after the effective date of this 2005 Act.

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

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

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

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

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

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

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

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

**SECTION 7. (1) No later than 30 days after the effective date of this 2005 Act, the Department of Human Services shall apply for approval from the Centers for Medicare and Medicaid Services to implement section 6 of this 2005 Act.**

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

**SECTION 8.** ORS 414.325 is amended to read:

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

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

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

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

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

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

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

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

(7)(a) The department shall pay a rural health clinic for a legend drug prescribed and dispensed under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The department may not require prior authorization for therapeutic classes of nonsedating antihistamines and nasal inhalers, as defined by rule by the department, when prescribed by an allergist for treatment of any of the following conditions, as described by the Health Services Commission on the funded portion of its prioritized list of services:

- (A) Asthma;
- (B) Sinusitis;
- (C) Rhinitis; or
- (D) Allergies.

(6)(a) The department shall pay a rural health clinic for a legend drug prescribed and dispensed under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition if:

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

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

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

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

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

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

**SECTION 10. 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 Senate April 28, 2005**

**Repassed by Senate July 20, 2005**

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Secretary of Senate

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President of Senate

**Passed by House June 30, 2005**

**Repassed by House July 26, 2005**

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Speaker of House

**Received by Governor:**

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

**Approved:**

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

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Governor

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