76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

House Bill 2398

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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 **as introduced.**

Removes option for Oregon Health Authority, in contracting with prepaid managed care health services organizations to provide services in medical assistance program, to contract with separate providers for physical health services and mental health services.

1 **A BILL FOR AN ACT**

2 Relating to integrated mental health services; amending ORS 414.710, 414.725, 414.736, 414.737,
3 414.740 and 416.510 and section 37, chapter 736, Oregon Laws 2003, and section 9, chapter 867,
4 Oregon Laws 2009.

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

6 **SECTION 1.** ORS 414.725 is amended to read:

7 414.725. (1)(a) Pursuant to rules adopted by the Oregon Health Authority, the authority shall
8 execute prepaid managed care health services contracts for health services funded by the Legisla-
9 tive Assembly. The contract must require that all services are provided to the extent and scope of
10 the Health Services Commission's report for each service provided under the contract. The con-
11 tracts are not subject to ORS chapters 279A and 279B, except ORS 279A.250 to 279A.290 and
12 279B.235. Notwithstanding ORS 414.720 (8), the rules adopted by the authority shall establish
13 timelines for executing the contracts described in this paragraph.

14 (b) [*It is the intent of ORS 414.705 to 414.750 that the state use,*] To the greatest extent
15 [*possible*] **practicable**, **the authority shall contract with** prepaid managed care health services
16 organizations to provide **integrated** physical **and mental** health **services**, dental[*, mental health*]
17 **services** and chemical dependency services under ORS 414.705 to 414.750.

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

23 (d) The authority shall establish annual financial reporting requirements for prepaid managed
24 care health services organizations. The authority shall prescribe a reporting procedure that elicits
25 sufficiently detailed information for the authority to assess the financial condition of each prepaid
26 managed care health services organization and that includes information on the three highest
27 executive salary and benefit packages of each prepaid managed care health services organization.

28 (e) The authority shall require compliance with the provisions of paragraph (d) of this subsection
29 as a condition of entering into a contract with a prepaid managed care health services organization.

30 (f)(A) The authority shall adopt rules and procedures to ensure that a rural health clinic that

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.

provides a health service to an enrollee of a prepaid managed care health services organization receives total aggregate payments from the organization, other payers on the claim and the authority that are no less than the amount the rural health clinic would receive in the authority's fee-for-service payment system. The authority shall issue a payment to the rural health clinic in accordance with this subsection within 45 days of receipt by the authority of a completed billing form.

(B) "Rural health clinic," as used in this paragraph, shall be defined by the authority by rule and shall conform, as far as practicable or applicable in this state, to the definition of that term in 42 U.S.C. 1395x(aa)(2).

(2) The authority 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 **and mental** health, dental[*, mental health*] or chemical dependency services provided to the enrollee. In addition, the authority 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 authority 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 2. ORS 414.736 is amended to read:

414.736. As used in this section and ORS 414.725, 414.737, 414.738, 414.739, 414.740, 414.741[,] **and** 414.742 [*and 414.743*] and section 9, chapter 867, Oregon Laws 2009:

(1) "Designated area" means a geographic area of the state defined by the Oregon Health Authority by rule that is served by a prepaid managed care health services organization.

(2) "Fully capitated health plan" means an organization that contracts with the Oregon Health

Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services provided under the contract are reasonably accessible to enrollees.

(3) "Physician care organization" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services described in ORS 414.705 (1)(b), (c), (d), (e), (g) and (j) are reasonably accessible to enrollees. A physician care organization may also contract with the authority or the board on a prepaid capitated basis to provide the health services described in ORS 414.705 (1)(k) and (L).

(4) "Prepaid managed care health services organization" means a managed physical **and mental** health, dental[*, mental health*] or chemical dependency organization that contracts with the authority or the board on a prepaid capitated basis under ORS 414.725. A prepaid managed care health services organization may be a dental care organization, fully capitated health plan, physician care organization[*, mental health organization*] or chemical dependency organization.

SECTION 3. ORS 414.736, as amended by section 6, chapter 886, Oregon Laws 2009, is amended to read:

414.736. As used in this section and ORS 414.725, 414.737, 414.738, 414.739, 414.740, 414.741 and 414.742 and section 9, chapter 867, Oregon Laws 2009:

(1) "Designated area" means a geographic area of the state defined by the Oregon Health Authority by rule that is served by a prepaid managed care health services organization.

(2) "Fully capitated health plan" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services provided under the contract are reasonably accessible to enrollees.

(3) "Physician care organization" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services described in ORS 414.705 (1)(b), (c), (d), (e), (g) and (j) are reasonably accessible to enrollees. A physician care organization may also contract with the authority or the board on a prepaid capitated basis to provide the health services described in ORS 414.705 (1)(k) and (L).

(4) "Prepaid managed care health services organization" means a managed physical **and mental** health, dental[*, mental health*] or chemical dependency organization that contracts with the authority or the board on a prepaid capitated basis under ORS 414.725. A prepaid managed care health services organization may be a dental care organization, fully capitated health plan, physician care organization[*, mental health organization*] or chemical dependency organization.

SECTION 4. ORS 414.737 is amended to read:

414.737. (1) Except as provided in subsections (2) and (3) of this section, a person who is eligible for or receiving physical **and mental** health, dental[*, mental health*] or chemical dependency services under ORS 414.705 to 414.750 must be enrolled in the prepaid managed care health services organizations to receive the health services for which the person is eligible.

(2) Subsection (1) of this section does not apply to:

(a) A person who is a noncitizen and who is eligible only for labor and delivery services and emergency treatment services;

(b) A person who is an American Indian and Alaskan Native beneficiary; and

(c) A person whom the Oregon Health Authority may by rule exempt from the mandatory en-

rollment requirement of subsection (1) of this section, including but not limited to:

(A) A person who is also eligible for Medicare;

(B) A woman in her third trimester of pregnancy at the time of enrollment;

(C) A person under 19 years of age who has been placed in adoptive or foster care out of state;

(D) A person under 18 years of age who is medically fragile and who has special health care needs; and

(E) A person with major medical coverage.

(3) Subsection (1) of this section does not apply to a person who resides in a designated area in which a prepaid managed care health services organization providing physical **and mental** health, dental[*, mental health*] or chemical dependency services is not able to assign an enrollee to a person or entity that is primarily responsible for coordinating the physical **and mental** health, dental[*, mental health*] or chemical dependency services provided to the enrollee.

(4) As used in this section, "American Indian and Alaskan Native beneficiary" means:

(a) A member of a federally recognized Indian tribe, band or group;

(b) An Eskimo or Aleut or other Alaskan Native enrolled by the United States Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601; or

(c) A person who is considered by the United States Secretary of the Interior to be an Indian for any purpose.

SECTION 5. ORS 414.737, as amended by section 8, chapter 751, Oregon Laws 2007, and section 331, chapter 595, Oregon Laws 2009, is amended to read:

414.737. (1) Except as provided in subsections (2) and (3) of this section, a person who is eligible for or receiving physical **and mental** health, dental[*, mental health*] or chemical dependency services under ORS 414.705 to 414.750 must be enrolled in the prepaid managed care health services organizations to receive the health services for which the person is eligible.

(2) Subsection (1) of this section does not apply to:

(a) A person who is a noncitizen and who is eligible only for labor and delivery services and emergency treatment services;

(b) A person who is an American Indian and Alaskan Native beneficiary; and

(c) A person whom the Oregon Health Authority may by rule exempt from the mandatory enrollment requirement of subsection (1) of this section, including but not limited to:

(A) A person who is also eligible for Medicare;

(B) A woman in her third trimester of pregnancy at the time of enrollment;

(C) A person under 19 years of age who has been placed in adoptive or foster care out of state;

(D) A person under 18 years of age who is medically fragile and who has special health care needs;

(E) A person receiving services under the Medically Involved Home-Care Program created by ORS 417.345 (1); and

(F) A person with major medical coverage.

(3) Subsection (1) of this section does not apply to a person who resides in a designated area in which a prepaid managed care health services organization providing physical **and mental** health, dental[*, mental health*] or chemical dependency services is not able to assign an enrollee to a person or entity that is primarily responsible for coordinating the physical **and mental** health, dental[*, mental health*] or chemical dependency services provided to the enrollee.

(4) As used in this section, "American Indian and Alaskan Native beneficiary" means:

(a) A member of a federally recognized Indian tribe, band or group;

1 (b) An Eskimo or Aleut or other Alaskan Native enrolled by the United States Secretary of the
2 Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601; or
3 (c) A person who is considered by the United States Secretary of the Interior to be an Indian
4 for any purpose.
5 **SECTION 6.** ORS 414.740 is amended to read:
6 414.740. (1) Notwithstanding ORS 414.738 (1), the Oregon Health Authority shall contract under
7 ORS 414.725 with a prepaid group practice health plan that serves at least 200,000 members in this
8 state and that has been issued a certificate of authority by the Department of Consumer and Busi-
9 ness Services as a health care service contractor to provide health services as described in ORS
10 414.705 (1)(b), (c), (d), (e), **(f),** (g) and (j). A health plan may also contract with the authority on a
11 prepaid capitated basis to provide the health services described in ORS 414.705 (1)(k) and (L). The
12 authority may accept financial contributions from any public or private entity to help implement and
13 administer the contract. The authority shall seek federal matching funds for any financial contribu-
14 tions received under this section.
15 (2) In a designated area, in addition to the contract described in subsection (1) of this section,
16 the authority shall contract with prepaid managed care health services organizations to provide
17 health services under ORS 414.705 to 414.750.
18 **SECTION 7.** ORS 416.510 is amended to read:
19 416.510. As used in ORS 416.510 to 416.610, unless the context requires otherwise:
20 (1) "Action" means an action, suit or proceeding.
21 (2) "Applicant" means an applicant for assistance.
22 (3) "Assistance" means moneys paid by the Department of Human Services to persons directly
23 and moneys paid by the Oregon Health Authority or by a prepaid managed care health services
24 organization for services provided under contract pursuant to ORS 414.725 to others for the benefit
25 of such persons.
26 (4) "Authority" means the Oregon Health Authority.
27 (5) "Claim" means a claim of a recipient of assistance for damages for personal injuries against
28 any person or public body, agency or commission other than the State Accident Insurance Fund
29 Corporation or Workers' Compensation Board.
30 (6) "Compromise" means a compromise between a recipient and any person or public body,
31 agency or commission against whom the recipient has a claim.
32 (7) "Judgment" means a judgment in any action or proceeding brought by a recipient to enforce
33 the claim of the recipient.
34 (8) "Prepaid managed care health services organization" means a managed **physical and mental**
35 health, dental [*or mental health care*] **or chemical dependency** organization that contracts with the
36 authority on a prepaid capitated basis pursuant to ORS 414.725. Prepaid managed care health ser-
37 vices organizations may be dental care organizations, fully capitated health plans[*, mental health*
38 *organizations*] or chemical dependency organizations.
39 (9) "Recipient" means a recipient of assistance.
40 (10) "Settlement" means a settlement between a recipient and any person or public body, agency
41 or commission against whom the recipient has a claim.
42 **SECTION 8.** ORS 414.710 is amended to read:
43 414.710. The following services are not subject to ORS 414.720:
44 (1) Nursing facilities, institutional and home- and community-based waivered services funded
45 through the Department of Human Services; and

1 (2) Services to children who are wards of the Department of Human Services by order of the
2 juvenile court and services to children and families for [*health care*] **physical** or mental health care
3 through the department.

4 **SECTION 9.** Section 9, chapter 867, Oregon Laws 2009, as amended by section 47, chapter 828,
5 Oregon Laws 2009, is amended to read:

6 **Sec. 9.** (1) As used in this section, "Medicaid managed care organization" means the following
7 entities defined in or referred to in ORS 414.736:

8 (a) A fully capitated health plan.

9 (b) A physician care organization.

10 [*(c) A mental health organization.*]

11 (2) No later than 45 days following the end of a calendar quarter, a Medicaid managed care
12 organization shall pay an assessment at a rate of one percent of the gross amount of capitation
13 payments received by the Medicaid managed care organization during that calendar quarter for
14 providing coverage of health services under ORS 414.705 to 414.750.

15 (3) The assessment shall be paid to the Oregon Health Authority in a manner and form pre-
16 scribed by the authority.

17 (4) Assessments received by the authority under this section shall be deposited in the Health
18 System Fund established in section 1, chapter 867, Oregon Laws 2009.

19 (5) The assessment imposed under this section is in addition to and not in lieu of any tax, sur-
20 charge or other assessment imposed on a Medicaid managed care organization.

21 **SECTION 10.** Section 37, chapter 736, Oregon Laws 2003, is amended to read:

22 **Sec. 37.** As used in sections 37 to 44 [*of this 2003 Act*]**, chapter 736, Oregon Laws 2003**:

23 (1) "Managed care premiums" means premium payments paid to a prepaid managed care health
24 services organization, but does not include Medicare premiums.

25 (2) "Prepaid managed care health services organization" or "organization" means a managed
26 **physical and mental** health, dental[*, mental health*] or chemical dependency organization that con-
27 tracts with the Department of Human Services on a prepaid capitated basis under ORS 414.725. A
28 prepaid managed care health services organization may be a dental care organization, fully capitated
29 health plan, physician care organization[*, mental health organization*] or chemical dependency or-
30 ganization.

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