SENATE AMENDMENTS TO B-ENGROSSED HOUSE BILL 3650 (INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)

By JOINT COMMITTEE ON WAYS AND MEANS

June 29

On page 1 of the printed B-engrossed bill, line 6, delete the second "and".

In line 7, after "2009" insert ", and section 10, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 101)".

In line 8, after "414.741" insert "and section 8, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 101), and sections 128, 129, 131, 142 and 147, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2100)".

On page 36, delete lines 3 through 45 and insert:

"**NOTE:** Section 44 was deleted by amendment. Subsequent sections were not renumbered.

"**SECTION 45.** ORS 414.736, as amended by section 6, chapter 886, Oregon Laws 2009, and section 4, chapter 417, Oregon Laws 2011 (Enrolled Senate Bill 201), is amended to read:

"414.736. As used in **ORS 192.493,** this chapter, ORS chapter 416 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 on a prepaid capitated basis under ORS [*414.725*] **414.630**.

"(3) 'Physician care organization' means an organization that contracts with the [*Oregon Health*] authority on a prepaid capitated basis under ORS [*414.725*] **414.630** to provide the health services described in ORS [*414.705 (1)(b)*] **414.025 (8)(b)**, (c), (d), (e), **(f),** (g) and (j). A physician care organization may also contract with the authority on a prepaid capitated basis to provide the health services described in ORS [*414.705 (1)(k)*] **414.025 (8)(k)** and (L).

"(4) 'Prepaid managed care health services organization' means a managed physical health, dental, mental health or chemical dependency organization that contracts with the authority on a prepaid capitated basis under ORS [*414.725*] **414.630**. 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.".

On page 42, delete lines 28 through 45.

On page 43, delete lines 1 through 24 and insert:

"**SECTION 57.** ORS 735.615, as amended by section 20, chapter 70, Oregon Laws 2011 (Enrolled Senate Bill 104), is amended to read:

"735.615. (1) Except as provided in subsection (3) of this section, a person who is a resident of this state, as defined by the Oregon Medical Insurance Pool Board, is eligible for medical pool coverage if:

"(a) An insurer, or an insurance company with a certificate of authority in any other state, has

made within a time frame established by the board an adverse underwriting decision, as defined in ORS 746.600 (1)(a)(A), (B) or (D), on individual medical insurance for health reasons while the person was a resident;

"(b) The person has a history of any medical or health conditions on the list adopted by the board under subsection (2) of this section;

"(c) The person is a spouse or dependent of a person described in paragraph (a) or (b) of this subsection; or

"(d) The person is eligible for the credit for health insurance costs under section 35 of the federal Internal Revenue Code, as amended and in effect on December 31, 2004.

"(2) The board may adopt a list of medical or health conditions for which a person is eligible for pool coverage without applying for individual medical insurance pursuant to this section.

"(3) A person is not eligible for coverage under ORS 735.600 to 735.650 if:

"(a) Except as provided in ORS 735.625 (3) and subsection (5) of this section, the person is eligible for Medicare;

"(b) The person is eligible to receive health services as defined in ORS [*414.705*] **414.025** that meet or exceed those adopted by the board;

"(c) The person has terminated coverage in the pool within the last 12 months and the termination was for:

"(A) A reason other than becoming eligible to receive health services as defined in ORS [*414.705*] **414.025**; or

"(B) A reason that does not meet exception criteria established by the board;

"(d) The person has exceeded the maximum lifetime benefit established by the board;

"(e) The person is an inmate of or a patient in a public institution named in ORS 179.321;

"(f) The person has, on the date of issue of coverage by the board, coverage under health insurance or a self-insurance arrangement that is substantially equivalent to coverage under ORS 735.625; or

"(g) The person has the premiums paid or reimbursed by a public entity or a health care provider, reducing the financial loss or obligation of the payer.

"(4) A person applying for coverage shall establish initial eligibility by providing evidence that the board requires.

"(5)(a) Notwithstanding ORS 735.625 (4)(c), if a person:

"(A) Becomes eligible for Medicare after being enrolled in the pool for a period of time as determined by the board by rule, that person may continue coverage within the pool as secondary coverage to Medicare.

"(B) Is eligible for Medicare but is not yet eligible to enroll in Medicare Parts B and D, the individual may receive coverage under the pool until enrolled in Medicare Parts B and D.

"(b) The board may adopt rules concerning the terms and conditions for the coverage provided under paragraph (a) of this subsection.

"(6) The board may adopt rules to establish additional eligibility requirements for a person described in subsection [*(1)(e)*] **(1)(d)** of this section.".

On page 46, after line 29, insert:

"**SECTION 68. If House Bill 2100 becomes law, sections 128 (amending ORS 414.025), 129 (amending ORS 414.033), 131 (amending ORS 414.065), 142 (amending ORS 414.705) and 147 (amending ORS 414.725), chapter ___, Oregon Laws 2011 (Enrolled House Bill 2100), are repealed.**

"**SECTION 69.** If House Bill 2100 becomes law, ORS 414.025, as amended by section 1, chapter 73, Oregon Laws 2010, and section 20 of this 2011 Act, is amended to read:

"414.025. **Definitions.** As used in this chapter and ORS [*chapter*] **chapters 411 and** 413, unless the context or a specially applicable statutory definition requires otherwise:

"(1)(a) 'Alternative payment methodology' means a payment other than a fee-for-services payment, used by coordinated care organizations as compensation for the provision of integrated and coordinated health care and services.

"(b) 'Alternative payment methodology' includes, but is not limited to:

"(A) Shared savings arrangements;

"(B) Bundled payments; and

"(C) Payments based on episodes.

"(2) 'Category of aid' means assistance provided by the Oregon Supplemental Income Program, aid granted under ORS 412.001 to 412.069 and 418.647 or federal Supplemental Security Income payments.

"(3) 'Categorically needy' means, insofar as funds are available for the category, a person who is a resident of this state and who:

"(a) Is receiving a category of aid.

"(b) Would be eligible for a category of aid but is not receiving a category of aid.

"(c) Is in a medical facility and, if the person left such facility, would be eligible for a category of aid.

"(d) Is under the age of 21 years and would be a dependent child as defined in ORS 412.001 except for age and regular attendance in school or in a course of professional or technical training.

"(e)(A) Is a caretaker relative, as defined in ORS 412.001, who cares for a child who would be a dependent child except for age and regular attendance in school or in a course of professional or technical training; or

"(B) Is the spouse of the caretaker relative.

"(f) Is under the age of 21 years and:

"(A) Is in a foster family home or licensed child-caring agency or institution and is one for whom a public agency of this state is assuming financial responsibility, in whole or in part; or

"(B) Is 18 years of age or older, is one for whom federal financial participation is available under Title XIX or XXI of the federal Social Security Act and who met the criteria in subparagraph (A) of this paragraph immediately prior to the person's 18th birthday.

"(g) Is a spouse of an individual receiving a category of aid and who is living with the recipient of a category of aid, whose needs and income are taken into account in determining the cash needs of the recipient of a category of aid, and who is determined by the Department of Human Services to be essential to the well-being of the recipient of a category of aid.

"(h) Is a caretaker relative as defined in ORS 412.001 who cares for a dependent child receiving aid granted under ORS 412.001 to 412.069 and 418.647 or is the spouse of the caretaker relative.

"(i) Is under the age of 21 years, is in a youth care center and is one for whom a public agency of this state is assuming financial responsibility, in whole or in part.

"(j) Is under the age of 21 years and is in an intermediate care facility which includes institutions for persons with [*mental retardation*] **developmental disabilities**.

"(k) Is under the age of 22 years and is in a psychiatric hospital.

"(L) Is under the age of 21 years and is in an independent living situation with all or part of the maintenance cost paid by the Department of Human Services.

"(m) Is a member of a family that received aid in the preceding month under ORS 412.006 or 412.014 and became ineligible for aid due to increased hours of or increased income from employment. As long as the member of the family is employed, such families will continue to be eligible for medical assistance for a period of at least six calendar months beginning with the month in which such family became ineligible for assistance due to increased hours of employment or increased earnings.

"(n) Is an adopted person under 21 years of age for whom a public agency is assuming financial responsibility in whole or in part.

"(o) Is an individual or is a member of a group who is required by federal law to be included in the state's medical assistance program in order for that program to qualify for federal funds.

"(p) Is an individual or member of a group who, subject to the rules of the department **or the Oregon Health Authority**, may optionally be included in the state's medical assistance program under federal law and regulations concerning the availability of federal funds for the expenses of that individual or group.

"(q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and 418.647, whether or not the woman is eligible for cash assistance.

"(r) Except as otherwise provided in this section, is a pregnant woman or child for whom federal financial participation is available under Title XIX or XXI of the federal Social Security Act.

"(s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the federal Social Security Act or is not a full-time student in a post-secondary education program as defined by the department [*of Human Services*] **or the authority** by rule, but whose family income is less than the federal poverty level and whose family investments and savings equal less than the investments and savings limit established by the department **or the authority** by rule.

"(t) Would be eligible for a category of aid but for the receipt of qualified long term care insurance benefits under a policy or certificate issued on or after January 1, 2008. As used in this paragraph, 'qualified long term care insurance' means a policy or certificate of insurance as defined in ORS 743.652 (6).

"(u) Is eligible for the Health Care for All Oregon Children program established in ORS 414.231.

"(v) Is dually eligible for Medicare and Medicaid and receiving care through a coordinated care organization.

"(4) 'Community health worker' means an individual who:

"(a) Has expertise or experience in public health;

"(b) Works in an urban or rural community, either for pay or as a volunteer in association with a local health care system;

"(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community where the worker serves;

"(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

"(e) Provides health education and information that is culturally appropriate to the individuals being served;

"(f) Assists community residents in receiving the care they need;

"(g) May give peer counseling and guidance on health behaviors; and

"(h) May provide direct services such as first aid or blood pressure screening.

"(5) 'Coordinated care organization' means an organization meeting criteria adopted by the Oregon Health Authority under section 4 of this 2011 Act.

"(6) 'Dually eligible for Medicare and Medicaid' means, with respect to eligibility for enrollment in a coordinated care organization, that an individual is eligible for health services funded by Title XIX of the Social Security Act and is:

"(a) Eligible for or enrolled in Part A of Title XVIII of the Social Security Act; or

"(b) Enrolled in Part B of Title XVIII of the Social Security Act.

"(7) 'Global budget' means a total amount established prospectively by the Oregon Health Authority to be paid to a coordinated care organization for the delivery of, management of, access to and quality of the health care delivered to members of the coordinated care organization.

"(8) 'Health services' means at least so much of each of the following as are funded by the Legislative Assembly based upon the prioritized list of health services compiled by the Health [*Services Commission under ORS 414.720*] **Evidence Review Commission under section 24, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2100)**:

"(a) Services required by federal law to be included in the state's medical assistance program in order for the program to qualify for federal funds;

"(b) Services provided by a physician as defined in ORS 677.010, a nurse practitioner certified under ORS 678.375 or other licensed practitioner within the scope of the practitioner's practice as defined by state law, and ambulance services;

"(c) Prescription drugs;

"(d) Laboratory and X-ray services;

"(e) Medical equipment and supplies;

"(f) Mental health services;

"(g) Chemical dependency services;

"(h) Emergency dental services;

"(i) Nonemergency dental services;

"(j) Provider services, other than services described in paragraphs (a) to (i), (k), (L) and (m) of this subsection, defined by federal law that may be included in the state's medical assistance program;

"(k) Emergency hospital services;

"(L) Outpatient hospital services; and

"(m) Inpatient hospital services.

"(9) 'Income' has the meaning given that term in ORS 411.704.

"(10) 'Investments and savings' means cash, securities as defined in ORS 59.015, negotiable instruments as defined in ORS 73.0104 and such similar investments or savings as the department [*of Human Services*] **or the authority** may establish by rule that are available to the applicant or recipient to contribute toward meeting the needs of the applicant or recipient.

"(11) 'Medical assistance' means so much of the medical, mental health, preventive, supportive, palliative and remedial care and services as may be prescribed by the [*Oregon Health*] authority according to the standards established pursuant to ORS 414.065, including payments made for services provided under an insurance or other contractual arrangement and money paid directly to the recipient for the purchase of health services and for services described in ORS 414.710.

"(12) 'Medical assistance' includes any care or services for any individual who is a patient in a medical institution or any care or services for any individual who has attained 65 years of age or is under 22 years of age, and who is a patient in a private or public institution for mental diseases. 'Medical assistance' does not include care or services for an inmate in a nonmedical public institution.

"(13) 'Patient centered primary care home' means a health care team or clinic that is organized in accordance with the standards established by the Oregon Health Authority under section 6 of this 2011 Act and that incorporates the following core attributes:

"(a) Access to care;

"(b) Accountability to consumers and to the community;

"(c) Comprehensive whole person care;

"(d) Continuity of care;

"(e) Coordination and integration of care; and

"(f) Person and family centered care.

"(14) 'Peer wellness specialist' means an individual who is responsible for assessing mental health service and support needs of the individual's peers through community outreach, assisting individuals with access to available services and resources, addressing barriers to services and providing education and information about available resources and mental health issues in order to reduce stigmas and discrimination toward consumers of mental health services and to provide direct services to assist individuals in creating and maintaining recovery, health and wellness.

"(15) 'Person centered care' means care that:

"(a) Reflects the individual patient's strengths and preferences;

"(b) Reflects the clinical needs of the patient as identified through an individualized assessment; and

"(c) Is based upon the patient's goals and will assist the patient in achieving the goals.

"(16) 'Personal health navigator' means an individual who provides information, assistance, tools and support to enable a patient to make the best health care decisions in the patient's particular circumstances and in light of the patient's needs, lifestyle, combination of conditions and desired outcomes.

"(17) 'Quality measure' means the measures and benchmarks identified by the authority in accordance with section 10 of this 2011 Act.

"(18) 'Resources' has the meaning given that term in ORS 411.704. For eligibility purposes, "resources" does not include charitable contributions raised by a community to assist with medical expenses.

"**SECTION 70.** If House Bill 2100 becomes law, section 64 of this 2011 Act is amended to read:

"**Sec. 64.** (1) ORS 414.705 is repealed.

"(2) Sections 13, 14 and 17 of this 2011 Act are repealed January 2, 2014.

"(3) ORS 414.610, 414.630, 414.640, 414.736, 414.738, 414.739[,] **and** 414.740 [*and 414.741*] are repealed July 1, 2017.

"**SECTION 71. If Senate Bill 101 becomes law, section 8, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 101) (amending ORS 414.743), is repealed and ORS 414.743, as amended by section 47 of this 2011 Act, is amended to read:**

"414.743. (1) **Except as provided in subsection (2) of this section,** a coordinated care organization that does not have a contract with a hospital to provide inpatient or outpatient hospital services under ORS 414.705 to 414.750 must, using [*a*] Medicare payment methodology, reimburse the noncontracting hospital for services provided to an enrollee of the plan at a rate no less than a percentage of the Medicare reimbursement rate for those services. The percentage of the Medicare reimbursement rate that is used to determine the reimbursement rate under this subsection is equal to [*two*] **four** percentage points less than the percentage of Medicare cost used by the authority in calculating the base hospital capitation payment to the plan, excluding any supplemental payments.

"**(2)(a) If a coordinated care organization does not have a contract with a hospital, and the hospital provides less than 10 percent of the hospital admissions and outpatient hospital services to enrollees of the organization, the percentage of the Medicare reimbursement rate that is used to determine the reimbursement rate under subsection (1) of this section is equal to two percentage points less than the percentage of Medicare cost used by the Oregon Health Authority in calculating the base hospital capitation payment to the organization, excluding any supplemental payments.**

"(b) This subsection is not intended to discourage a coordinated care organization and a hospital from entering into a contract and is intended to apply to hospitals that provide primarily, but not exclusively, specialty and emergency care to enrollees of the organization.

"[*(2)*] **(3)** A hospital that does not have a contract with a coordinated care organization to provide inpatient or outpatient hospital services under ORS 414.705 to 414.750 must accept as payment in full for hospital services the rates described in [*subsection (1)*] **subsections (1) and (2)** of this section.

"[*(3)*] **(4)** This section does not apply to type A and type B hospitals, as described in ORS 442.470, and rural critical access hospitals, as defined in ORS 315.613.

"[*(4)*] **(5)** The Oregon Health Authority shall adopt rules to implement and administer this section.

"**SECTION 72.** If Senate Bill 101 becomes law, section 10, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 101), is amended to read:

"**Sec. 10.** (1) The amendments to ORS 414.826, 414.841 and 414.851 by sections 1 to 4 [*of this 2011 Act*]**, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 101),** become operative January 1, 2012.

"(2) The amendments to ORS 414.743 by [*section 8 of this 2011 Act*] **section 71 of this 2011 Act** become operative September 1, 2011.".

In line 30, delete "68" and insert "73".
