

HOUSE AMENDMENTS TO HOUSE BILL 2081

By COMMITTEE ON HEALTH CARE

March 15

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating new provisions; and”
2 and delete “and 442.386” and insert “, 442.386 and 442.993”.

3 On page 3, line 17, delete “If appropriate,” and after “to” insert “develop and” and delete
4 “action”.

5 After line 18, insert:

6 “(7)(a) The authority shall adopt by rule criteria for waiving the requirement for a provider or
7 payer to undertake a performance improvement plan, if necessitated by unforeseen market condi-
8 tions or other equitable factors.

9 “(b) The authority shall collaborate with a provider or payer that is required to develop and
10 undertake a performance improvement plan by:

11 “(A) Providing a template for performance improvement plans, guidelines and a time frame for
12 submission of the plan;

13 “(B) Providing technical assistance such as webinars, office hours, consultation with technical
14 assistance providers or staff, or other guidance; and

15 “(C) Establishing a contact at the authority who can work with the provider or payer in devel-
16 oping the performance improvement plan.

17 “(8) A performance improvement plan must:

18 “(a) Identify key cost drivers and include concrete steps a provider or payer will take to address
19 the cost drivers;

20 “(b) Identify an appropriate time frame by which a provider or payer will reduce the cost drivers
21 and be subject to an evaluation by the authority; and

22 “(c) Have clear measurements of success.

23 “(9) The authority shall adopt by rule criteria for imposing a financial penalty on any provider
24 or payer that exceeds the cost growth target without reasonable cause in three out of five calendar
25 years or on any provider or payer that does not participate in the program. The criteria must be
26 based on the degree to which the provider or payer exceeded the target and other factors, including
27 but not limited to:

28 “(a) The size of the provider or payer organization;

29 “(b) The good faith efforts of the provider or payer to address health care costs;

30 “(c) The provider’s or payer’s cooperation with the authority or the department;

31 “(d) Overlapping penalties that may be imposed for failing to meet the target, such as require-
32 ments relating to medical loss ratios; and

33 “(e) A provider’s or payer’s overall performance in reducing cost across all markets served by
34 the provider or payer.”.

35 On page 5, line 21, delete “action”.

1 On page 6, line 3, delete “action”.

2 Delete lines 8 through 21 and insert:

3 “**SECTION 5.** Section 5, chapter 560, Oregon Laws 2019, is amended to read:

4 “**Sec. 5.** (1) No later than September 15, 2020, the Health Care Cost Growth [*Benchmark*] **Target**
5 Implementation Committee shall report to the Oregon Health Policy Board for approval, and to the
6 interim committees of the Legislative Assembly related to health, the committee’s recommendations
7 under section 4, [*of this 2019 Act*] **chapter 560, Oregon Laws 2019**. The report shall include a leg-
8 islative concept for carrying out the provisions of section 4 (2)(k)(B), [*of this 2019 Act*] **chapter 560,**
9 **Oregon Laws 2019**, regarding the imposition of performance improvement [*action*] plans or other
10 escalating enforcement actions when a provider or payer fails to remain at or below the health care
11 cost growth [*benchmark*] **target**.

12 “(2) The Oregon Health Authority and the Department of Consumer and Business Services shall
13 implement the recommendations of the committee[, *except for the provisions in the legislative concept*
14 *described in subsection (1) of this section, upon approval by the board*].

15 “**SECTION 6.** ORS 442.993 is amended to read:

16 “442.993. [(1) Any reporting entity that fails to report as required in ORS 442.373 or rules of the
17 Oregon Health Authority adopted pursuant to ORS 442.373 may be subject to a civil penalty.]

18 “[2] (1) The **Oregon Health** Authority shall adopt a schedule of **civil** penalties not to exceed
19 \$500 per day of violation, determined by the severity of the violation, **for:**

20 “(a) **Any reporting entity that fails to report as required by ORS 442.373 or rules adopted**
21 **by the authority.**

22 “(b) **Any provider or payer that fails to report cost growth data or to develop and im-**
23 **plement a performance improvement plan if required by ORS 442.386 or rules adopted by the**
24 **authority.**

25 “[3] (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

26 “[4] (3) Civil penalties imposed under this section may be remitted or mitigated upon such
27 terms and conditions as the authority considers proper and consistent with the public health and
28 safety.

29 “[5] (4) Civil penalties incurred under any law of this state are not allowable as costs for the
30 purpose of rate determination or for reimbursement by a third-party payer.

31 “(5) **Moneys collected from providers and payers described in subsection (1)(b) of this**
32 **section shall be deposited in the Oregon Health Authority Fund established by ORS 413.101**
33 **and used by the authority to support programs that expand access to health care and that**
34 **support populations adversely affected by high health care costs.**

35 “**SECTION 7.** A financial penalty described in ORS 442.386 (9), as amended by section 2
36 of this 2021 Act, may be imposed no earlier than January 1, 2026, for performance by a pro-
37 vider or payer in meeting cost growth targets during calendar years 2021 to 2025.”.

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