

B-Engrossed
House Bill 2910

Ordered by the House June 23
Including House Amendments dated March 29 and June 23

Sponsored by Representative NOSSE; Representative MORGAN (Presession filed.)

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.

Requires Oregon Health Authority, upon receipt of federal approval, to assess fee on emergency medical services providers and use fee, **interest, penalties assessed on providers and associated federal financial participation less any costs incurred by authority to administer program** to reimburse **emergency medical services providers** for costs of emergency medical services transports.

Authorizes Medicaid supplemental reimbursements to be paid in addition to reimbursements paid by coordinated care organizations for emergency medical services transports.

Increases fees for licenses for ambulance services and ambulances. Becomes operative January 1, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to emergency medical services providers; creating new provisions; amending ORS 413.234
3 and 682.047; and declaring an emergency.

4 Whereas emergency medical services providers play an essential role in serving this state's
5 medical assistance recipients; and

6 Whereas in 2016, the Centers for Medicare and Medicaid Services denied a request by the state
7 to approve Medicaid supplemental reimbursement for private and contracted emergency medical
8 services providers; and

9 Whereas private and contracted emergency medical services providers must be ensured equal
10 access to funding for service that is available from the federal government; and

11 Whereas it is the intent of the Legislative Assembly that the Oregon Health Authority seek
12 approval from the Centers for Medicare and Medicaid Services for supplemental funding for non-
13 federal, nonpublic emergency medical services entities only after approval is fully granted for the
14 Ground Emergency Medical Transportation program for public emergency medical services entities;
15 now, therefore,

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

17 **SECTION 1. (1) As used in this section:**

18 (a) **"Emergency medical services" means the services provided by an emergency medical**
19 **services provider to an individual experiencing a medical emergency in order to:**

20 (A) **Assess, treat and stabilize the individual's medical condition; or**

21 (B) **Prepare and transport the individual to a medical facility.**

22 (b) **"Emergency medical services provider" means a nonfederal or nonpublic entity that:**

23 (A) **Employs individuals who are licensed by the Oregon Health Authority under ORS**

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.

1 chapter 682 to provide emergency medical services; and

2 (B) Contracts with a local government pursuant to a plan described in ORS 682.062.

3 (c) "Emergency medical services transport" means an emergency medical services
4 provider's evaluation of an individual experiencing a medical emergency and the transporta-
5 tion of the individual to the nearest medical facility capable of meeting the needs of the in-
6 dividual.

7 (d) "Federal financial participation" has the meaning given that term in ORS 413.234.

8 (e)(A) "Gross receipts" means gross payments received as patient care revenue for
9 emergency medical services transports, determined on a cash basis of accounting.

10 (B) "Gross receipts" does not include Medicaid supplemental reimbursement pursuant to
11 ORS 413.234.

12 (f) "Local government" has the meaning given that term in ORS 174.116.

13 (2) The Oregon Health Authority may request approval from the Centers for Medicare
14 and Medicaid Services to administer the program described in this section. Upon receipt of
15 approval, the authority shall:

16 (a) Annually assess a quality assurance fee on each emergency medical services trans-
17 port provided by an emergency medical services provider licensed in this state in an amount
18 equal to the lesser of the amount permitted by federal law and five percent of the projected
19 total gross receipts for the following 12-month period, divided by the projected number of
20 emergency medical services transports in the same 12-month period. The projections must
21 be based on the data reported under paragraph (h) of this subsection.

22 (b) Prescribe the manner and due dates for the assessment and collection of quality as-
23 surance fees under this section.

24 (c) Modify or make adjustments to any methodology, fee amount or other provision
25 specified in this section to the extent necessary to meet the requirements of federal law or
26 to ensure federal financial participation in the costs of emergency medical services trans-
27 ports reimbursed by the authority.

28 (d) Assess interest on quality assurance fees not paid by the date due at 10 percent per
29 annum, beginning on the day after the date the payment was due.

30 (e) Assess a penalty equal to the interest charged under paragraph (d) of this subsection
31 for each month for which the payment is more than 60 days overdue.

32 (f) Deduct the amount of any unpaid fee, interest or penalty assessed under this section
33 from any fee-for-service medical assistance reimbursement owed to the emergency medical
34 services provider until the full amount of the fee, interest or penalty is recovered. The au-
35 thority may not make a deduction pursuant to this paragraph until after the authority gives
36 the emergency medical services provider written notification. The authority may permit the
37 amount owed to be deducted over a period of time that takes into account the financial
38 condition of the emergency medical services provider.

39 (g) Establish the reimbursement to be paid to an emergency medical services provider
40 for an emergency medical services transport in an amount that is equal to the amount of
41 quality assurance fees, interest and penalties assessed by the authority under this section
42 and the associated federal financial participation less any costs incurred by the authority to
43 administer this section. An emergency medical services provider shall use a portion of the
44 funds to increase wages and benefits for employees. The reimbursement established under
45 this paragraph:

1 (A) May not exceed the costs for the emergency medical services transport, determined
2 in accordance with standards established by the authority, less the amount of reimburse-
3 ment that the emergency medical services provider is eligible to receive from all public and
4 private sources.

5 (B) Shall be paid only from federal financial participation in the costs of emergency
6 medical services transports and the Emergency Medical Services Fund established under
7 section 2 of this 2021 Act.

8 (C) May not be used to supplant existing funding for emergency medical services trans-
9 ports and the Emergency Medical Services Fund established under section 2 of this 2021 Act.

10 (D) Shall be required and payable only for periods in which emergency medical services
11 providers are required to pay quality assurance fees.

12 (E) May be reduced by the authority to provide grants to emergency medical services
13 providers for innovative ambulance programs.

14 (h) Prescribe the form and manner for an emergency medical services provider to report
15 the data necessary to administer this section, including information about the portion of
16 funds that the emergency medical services provider used to increase wages and benefits for
17 employees, and may require a certification by each emergency medical services provider
18 under penalty of perjury of the truth of the data reported under this paragraph.

19 (i) Require a medical services provider to report to the authority the number of emer-
20 gency medical services transports it provided in each 12-month period, by payer type.

21 (j) Require an emergency medical services provider to report to the authority its gross
22 receipts for each 12-month period.

23 (k) Require an emergency medical services provider to report to the authority the
24 provider's costs for emergency medical services transports.

25 (3) All quality assurance fees and interest collected under this section shall be deposited
26 into the Emergency Medical Services Fund established in section 2 of this 2021 Act.

27 (4) The authority may waive a portion or all of the interest or penalties, or both, assessed
28 under subsection (2) of this section if the authority determines that the imposition of the full
29 amount of the quality assurance fee in accordance with the due dates established under
30 subsection (2) of this section is likely to impose an undue financial hardship on the emer-
31 gency medical services provider. The waiver must be conditioned on the emergency medical
32 services provider's agreement to pay the quality assurance fees on an alternative schedule
33 developed by the authority.

34 (5) In the event of a merger, acquisition or similar transaction involving an emergency
35 medical services provider that has outstanding quality assurance fees, interest or penalties
36 due, the successor emergency medical services provider is responsible for paying to the au-
37 thority the full amount of outstanding quality assurance fees, interest and penalties that are
38 due on the effective date of the merger, acquisition or transaction.

39 (6) The authority shall modify the method for calculating or paying the reimbursement
40 under subsection (2) of this section if the modification is necessary to ensure that the
41 expenditures for emergency medical services transports qualify for federal financial partic-
42 ipation.

43 (7) The authority shall administer this section in a manner that is consistent with:

44 (a) ORS 413.234 and 413.235; and

45 (b) Federal law, including the terms and conditions of agreements with the Centers for

1 **Medicare and Medicaid Services.**

2 (8) **An emergency medical services provider shall report the data required by subsection**
3 **(2)(h) of this section within five days after the date upon which the report is due. After**
4 **sending written notice to an emergency medical services provider, the authority may impose**
5 **a penalty of \$100 per day against an emergency medical services provider for every day that**
6 **the report is overdue. Any funds resulting from a penalty imposed under this subsection**
7 **shall be deposited in the General Fund to be available for general governmental purposes.**

8 **SECTION 2. (1) The Emergency Medical Services Fund is established in the State Treas-**
9 **ury, separate and distinct from the General Fund. The Emergency Medical Services Fund**
10 **consists of moneys collected by the Oregon Health Authority under section 1 (3) of this 2021**
11 **Act. Moneys in the fund are continuously appropriated to the authority for the purposes of:**

12 (a) **Providing grants to emergency medical services providers for innovative ambulance**
13 **programs;**

14 (b) **Funding the state medical assistance program, including but not limited to increasing**
15 **reimbursement rates for emergency medical services transports; and**

16 (c) **Administering section 1 of this 2021 Act.**

17 (2) **Interest earned by the fund shall be credited to the fund.**

18 **SECTION 3. (1) Section 1 of this 2021 Act is in addition to and not in lieu of the provisions**
19 **of ORS 413.234 and 413.235.**

20 (2) **The reimbursement established under section 1 of this 2021 Act also applies to the**
21 **reimbursement of emergency medical services providers, as defined in section 1 of this 2021**
22 **Act, by coordinated care organizations, as defined in ORS 414.025, as permitted by the Cen-**
23 **ters for Medicare and Medicaid Services.**

24 **SECTION 4.** ORS 413.234 is amended to read:

25 413.234. (1) As used in ORS 413.234 and 413.235:

26 (a) "Emergency medical services" means the services provided by emergency medical services
27 providers to an individual experiencing a medical emergency in order to:

28 (A) Assess, treat and stabilize the individual's medical condition; or

29 (B) Prepare and transport the individual by ground to a medical facility.

30 (b) "Emergency medical services provider" or "provider" means an entity that[:]

31 [(A)] employs individuals who are licensed by the Oregon Health Authority under ORS chapter
32 682 to provide emergency medical services[:]; and

33 [(B)(i)] **that** is owned or operated by a local government, a state agency or a federally recog-
34 nized Indian tribe.[: or]

35 [(ii)] *Contracts with a local government pursuant to a plan described in ORS 682.062.*

36 (c) "Federal financial participation" means the portion of medical assistance expenditures for
37 emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid
38 Services in accordance with the state plan for medical assistance.

39 (d) "Local government" has the meaning given that term in ORS 174.116.

40 (2) Upon request, an emergency medical services provider that has entered into a provider
41 agreement with the authority **or a contract with a coordinated care organization** is eligible to
42 receive Medicaid supplemental reimbursement from the authority **or coordinated care organiza-**
43 **tion** for the cost of providing emergency medical services to a medical assistance recipient. The
44 Medicaid supplemental reimbursement shall be added to the payment **by the authority or coordi-**
45 **nated care organization** for the emergency medical services [*established by the authority in ac-*

1 *cordance with ORS 414.065] as permitted by the Centers for Medicare and Medicaid Services.*

2 (3)(a) Except as provided in paragraph (b) of this subsection, the Medicaid supplemental re-
3 imbursement paid to an emergency medical services provider shall be equal to the amount of federal
4 financial participation received by the authority for the provider's cost for the emergency medical
5 services.

6 (b) The Medicaid supplemental reimbursement paid to a provider under this section may not
7 exceed the provider's actual costs for the emergency medical services, determined in accordance
8 with standards established by the authority, less the amount of reimbursement that the provider is
9 eligible to receive from all **public and private** sources[, *including the payment amount for emergency*
10 *medical services established by the authority in accordance with ORS 414.065].*

11 (4) An emergency medical services provider shall make readily available to the authority doc-
12 umentation, data and certifications, as prescribed by the authority, necessary to establish that the
13 emergency medical services expenditures qualify for federal financial participation and to calculate
14 the amount of Medicaid supplemental reimbursement that is due.

15 (5)(a) Except as provided in paragraph (b) of this subsection, the authority shall modify the
16 method for calculating or paying the Medicaid supplemental reimbursement if modification is nec-
17 essary to ensure that emergency medical services expenditures qualify for federal financial partic-
18 ipation.

19 (b) This section does not authorize the payment of Medicaid supplemental reimbursement to an
20 emergency medical services provider if the provider has not entered into a provider agreement[,]
21 with the authority, **or a contract with a coordinated care organization**, to serve medical assist-
22 ance recipients.

23 (c) If the Centers for Medicare and Medicaid Services approves the implementation of this sec-
24 tion and later revokes its approval or expresses its intent to revoke or refuse to renew its approval,
25 the authority shall report the fact at the next convening of the interim or regular session commit-
26 tees of the Legislative Assembly related to health care.

27 (6) General Fund moneys may not be used to implement this section. As a condition of receiving
28 Medicaid supplemental reimbursement, an emergency medical services provider must enter into and
29 comply with an agreement with the authority to reimburse the authority for the costs of adminis-
30 tering this section.

31 *[(7) This section applies only to emergency medical services providers that are reimbursed by the*
32 *authority on a fee-for-service basis.]*

33 **SECTION 5.** ORS 682.047 is amended to read:

34 682.047. (1) *[When applications have been made as required under ORS 682.045,]* The Oregon
35 Health Authority shall issue *[licenses to the owner]* **a license to the owner of an ambulance ser-**
36 **vice, or the owner of an ambulance, that applies for a license under ORS 682.045** if *[it is*
37 *found]* **the authority finds** that the ambulance service *[and]* **or ambulance** *[comply]* **complies** with
38 the requirements of ORS 820.350 to 820.380 and this chapter and the rules adopted *[thereunder]*
39 **under ORS 820.350 to 820.380 and this chapter.**

40 (2) *[Each license unless sooner suspended or revoked shall expire on the next June 30 or on such*
41 *date as may be specified by authority rule.]* **An ambulance service license or ambulance license**
42 **expires on the next June 30 after the license is issued or on another date specified by the**
43 **authority by rule.**

44 (3) The authority may initially issue a license for less than a 12-month period or for more than
45 a 12-month period not to exceed 15 months.

1 (4) *[Licenses shall be issued only to the owner of the ambulance service and only for the ambulance*
2 *named in the application and shall not be]* **A license issued under this section is not** transferable
3 to any other person, governmental unit, ambulance service or ambulance.

4 (5) Licenses *[shall]* **must** be displayed as prescribed by the rules of the authority.

5 (6) The authority shall provide for the replacement of any current license that becomes lost,
6 damaged or destroyed. *[A replacement fee of \$10 shall be charged for each replacement license.]*

7 (7) Nonrefundable fees in the following amounts *[shall]* **must** accompany each initial and each
8 subsequent annual application to obtain a license to operate an ambulance service and ambulance:

9 (a) *[\$75]* **\$190** for an ambulance service having a maximum of four full-time paid positions;

10 (b) *[\$250]* **\$625** for an ambulance service having five or more full-time paid positions;

11 (c) *[\$45]* **\$115** for each ambulance license if the ambulance is owned and operated by an ambu-
12 lance service that has a maximum of four full-time paid positions; and

13 (d) *[\$80]* **\$200** for each ambulance license if the ambulance is owned and operated by an ambu-
14 lance service having five or more full-time paid positions.

15 (8) The fees established under subsection (7) of this section do not apply to an ambulance or
16 vehicle described under ORS 682.035.

17 **SECTION 6.** The amendments to ORS 682.047 by section 5 of this 2021 Act apply to li-
18 censes issued or renewed on or after the operative date specified in section 7 of this 2021
19 Act.

20 **SECTION 7.** (1) The amendments to ORS 682.047 by section 5 of this 2021 Act become
21 operative on January 1, 2022.

22 (2) The Oregon Health Authority may take any action before the operative date specified
23 in subsection (1) of this section that is necessary to enable the authority to exercise, on and
24 after the operative date specified in subsection (1) of this section, all of the duties, functions
25 and powers conferred on the authority by the amendments to ORS 682.047 by section 5 of this
26 2021 Act.

27 **SECTION 8.** The Oregon Health Authority shall immediately notify the Legislative
28 Counsel if the Centers for Medicare and Medicaid Services approves or disapproves, in whole
29 or in part, a request for approval to administer the program described in section 1 of this
30 2021 Act.

31 **SECTION 9.** Notwithstanding any other law limiting expenditures, the amount of
32 \$30,366,152 is established for the biennium beginning July 1, 2021, as the maximum limit for
33 payment of expenses by the Oregon Health Authority from the Emergency Medical Services
34 Fund established by section 2 of this 2021 Act.

35 **SECTION 10.** Notwithstanding any other law limiting expenditures, the limitation on
36 expenditures established by section 5 (1), chapter _____, Oregon Laws 2021 (Enrolled House
37 Bill 5024), for the biennium beginning July 1, 2021, as the maximum limit for payment of ex-
38 penses from federal funds, excluding federal funds described in section 2, chapter _____,
39 Oregon Laws 2021 (Enrolled House Bill 5024), collected or received by the Oregon Health
40 Authority for the Health Systems, Health Policy and Analytics, and Public Health, is in-
41 creased by \$45,366,152, for the purpose of carrying out the provisions of this 2021 Act.

42 **SECTION 11.** This 2021 Act being necessary for the immediate preservation of the public
43 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
44 on its passage.