B-Engrossed
Senate Bill 800

Ordered by the Senate June 23
Including Senate Amendments dated April 23 and June 23

Sponsored by Senator WAGNER; Senator MANNING JR (at the request of Oregon Health Care Association)

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.

Establishes Oregon Essential Workforce Health Care Program in Oregon Health Authority to provide [*health care to employees of*] **supplemental payments, as approved by Centers for Medicare and Medicaid Services, to** long term care facilities, residential [*care*] facilities and in-home care agencies that **elect to** participate [*in medical assistance program. Directs authority to contract with entity to administer program*] **and meet specified requirements, to be used to provide health care benefits to employees of facilities**.

Exempts from Insurance Code association or group of employers administering self-insured program to provide health insurance coverage if association or group meets specified criteria.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health care; creating new provisions; amending ORS 731.036; and declaring an emergency.

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

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

(a) "Eligible employer" means an operator of a facility that:

(A) Is a participating provider in the state medical assistance program;

(B) Elects to participate in the Oregon Essential Workforce Health Care Program; and

(C) Meets other requirements prescribed by the Oregon Health Authority by rule.

(b) "Facility" includes:

(A) A long term care facility licensed under ORS 441.020;

(B) A residential facility as defined in ORS 443.400; and

(C) An in-home care agency licensed under ORS 443.315.

(2) The Oregon Essential Workforce Health Care Program is established in the Oregon Health Authority. The authority, in coordination with the Department of Human Services, shall provide supplemental payments, as approved by the Centers for Medicare and Medicaid Services, to eligible employers to be used by the eligible employers to provide health care benefits to the employees of their facilities.

(3) To participate in the program, an eligible employer shall:

(a) Enter into a memorandum of understanding with the authority that specifies how the supplemental payments will be used;

(b) Agree to participate in evidence-based workforce and quality of care improvements; and

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.

(c) Annually report quality and other metrics.

(4) The authority, in coordination with the department, may adopt rules to carry out the provisions of this section.

SECTION 2. ORS 731.036 is amended to read:

731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, if the organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743, 743A and 743B;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the ex-

clusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

(i) Known claims, paid and outstanding;

(ii) A history of incurred but not reported claims;

(iii) Claims handling expenses;

(iv) Unearned contributions; and

(v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate the coverage to [*beneficiaries*] **enrollees**, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and

(h) Each public body in a joint insurance program is liable only to its own employees and no others for benefits under the program in the event, and to the extent, that no further funds, including funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this subsection does not apply to an authorized insurer providing such services under an insurance policy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all necessary and appropriate preparations for and actual transportation provided to return a decedent's remains from the decedent's place of death to a location designated by a person with valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft or other occurrence, as specified in the agreement. The exemption established in this subsection applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail installment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof, between the amount received by the seller, lessor, lender or assignee, as applicable, that represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or more affordable housing entities and that complies with the same requirements that public bodies must meet under ORS 30.282 (6). As used in this subsection:

(a) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented, with or without government assistance, on a basis that is affordable to individuals of low income.

(b) "Affordable housing entity" means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a legal entity created to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company;

(ii) Has the power to direct the management or policies of the partnership or limited liability company;

(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or

(iv) Has any other material relationship with the partnership or limited liability company.

(11) Except as provided in ORS 735.500 and 735.510, a person certified by the Department of Consumer and Business Services to operate a retainer medical practice.

(12) An association or group of eligible employers, as defined in section 1 of this 2021 Act, that administers a self-insured program to provide health insurance coverage, excluding disability insurance, to their employees or retired employees or their dependents or a combination of employees and dependents, with or without employee contributions, if all of the following conditions are met:

(a) The number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(b) The program includes all coverages and benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

(c) The program has program documents that define program benefits and administration;

(d) Enrollees of the program are provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743, 743A and 743B;

(e) Program contributions and reserves are held in separate accounts and used for the exclusive benefit of the program;

(f) The program maintains adequate reserves, which may be invested in accordance with the provisions of ORS chapter 293, calculated annually with proper actuarial calculations including the following:

(A) Known claims, paid and outstanding;

(B) A history of incurred but not reported claims;

(C) Claims handling expenses;

(D) Unearned contributions; and

(E) A claims trend factor;

(g) The program maintains adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(h) The program has sufficient personnel to service the program or contracts with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services; and

(i) The program files with the director copies of all documents creating and governing the program, all forms used to communicate the coverage to enrollees, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year.

SECTION 3. (1) The Oregon Health Authority shall seek approval from the Centers for Medicare and Medicaid Services to make the supplemental payments to eligible employers under section 1 of this 2021 Act.

(2) The authority shall notify the Legislative Counsel upon receipt of the approval or denial of approval by the Centers for Medicare and Medicaid Services under subsection (1) of this section.

SECTION 4. Section 1 of this 2021 Act and the amendments to ORS 731.036 by section 2 of this 2021 Act become operative upon receipt of approval from the Centers for Medicare and Medicaid Services to make the supplemental payments described in section 1 of this 2021 Act.

SECTION 5. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.