

Requested by Representative NOSSE

**PROPOSED AMENDMENTS TO
HOUSE BILL 3045**

1 In line 2 of the printed bill, delete “amending” and insert “creating new
2 provisions; amending ORS 414.025, 414.325 and 414.361 and”.

3 After line 7, insert:

4 **“SECTION 2.** ORS 414.025 is amended to read:

5 “414.025. As used in this chapter and ORS chapters 411 and 413, unless
6 the context or a specially applicable statutory definition requires otherwise:

7 “(1)(a) ‘Alternative payment methodology’ means a payment other than a
8 fee-for-services payment, used by coordinated care organizations as compen-
9 sation for the provision of integrated and coordinated health care and ser-
10 vices.

11 “(b) ‘Alternative payment methodology’ includes, but is not limited to:

12 “(A) Shared savings arrangements;

13 “(B) Bundled payments; and

14 “(C) Payments based on episodes.

15 “(2) ‘Behavioral health assessment’ means an evaluation by a behavioral
16 health clinician, in person or using telemedicine, to determine a patient’s
17 need for immediate crisis stabilization.

18 “(3) ‘Behavioral health clinician’ means:

19 “(a) A licensed psychiatrist;

20 “(b) A licensed psychologist;

21 “(c) A licensed nurse practitioner with a specialty in psychiatric mental

1 health;

2 “(d) A licensed clinical social worker;

3 “(e) A licensed professional counselor or licensed marriage and family
4 therapist;

5 “(f) A certified clinical social work associate;

6 “(g) An intern or resident who is working under a board-approved super-
7 visory contract in a clinical mental health field; or

8 “(h) Any other clinician whose authorized scope of practice includes
9 mental health diagnosis and treatment.

10 “(4) ‘Behavioral health crisis’ means a disruption in an individual’s men-
11 tal or emotional stability or functioning resulting in an urgent need for im-
12 mediate outpatient treatment in an emergency department or admission to
13 a hospital to prevent a serious deterioration in the individual’s mental or
14 physical health.

15 “(5) ‘Behavioral health home’ means a mental health disorder or sub-
16 stance use disorder treatment organization, as defined by the Oregon Health
17 Authority by rule, that provides integrated health care to individuals whose
18 primary diagnoses are mental health disorders or substance use disorders.

19 “(6) ‘Category of aid’ means assistance provided by the Oregon Supple-
20 mental Income Program, aid granted under ORS 411.877 to 411.896 and
21 412.001 to 412.069 or federal Supplemental Security Income payments.

22 “(7) ‘Community health worker’ means an individual who meets quali-
23 fication criteria adopted by the authority under ORS 414.665 and who:

24 “(a) Has expertise or experience in public health;

25 “(b) Works in an urban or rural community, either for pay or as a vol-
26 unteer in association with a local health care system;

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

30 “(d) Assists members of the community to improve their health and in-

1 creases the capacity of the community to meet the health care needs of its
2 residents and achieve wellness;

3 “(e) Provides health education and information that is culturally appro-
4 priate to the individuals being served;

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

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

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

9 “(8) ‘Coordinated care organization’ means an organization meeting cri-
10 teria adopted by the Oregon Health Authority under ORS 414.572.

11 “(9) ‘Dually eligible for Medicare and Medicaid’ means, with respect to
12 eligibility for enrollment in a coordinated care organization, that an indi-
13 vidual is eligible for health services funded by Title XIX of the Social Se-
14 curity Act and is:

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

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

18 “(10)(a) ‘Family support specialist’ means an individual who meets quali-
19 fication criteria adopted by the authority under ORS 414.665 and who pro-
20 vides supportive services to and has experience parenting a child who:

21 “(A) Is a current or former consumer of mental health or addiction
22 treatment; or

23 “(B) Is facing or has faced difficulties in accessing education, health and
24 wellness services due to a mental health or behavioral health barrier.

25 “(b) A ‘family support specialist’ may be a peer wellness specialist or a
26 peer support specialist.

27 “(11) ‘Global budget’ means a total amount established prospectively by
28 the Oregon Health Authority to be paid to a coordinated care organization
29 for the delivery of, management of, access to and quality of the health care
30 delivered to members of the coordinated care organization.

1 “(12) ‘Health insurance exchange’ or ‘exchange’ means an American
2 Health Benefit Exchange described in 42 U.S.C. 18031, 18032, 18033 and 18041.

3 “(13) ‘Health services’ means at least so much of each of the following
4 as are funded by the Legislative Assembly based upon the prioritized list of
5 health services compiled by the Health Evidence Review Commission under
6 ORS 414.690:

7 “(a) Services required by federal law to be included in the state’s medical
8 assistance program in order for the program to qualify for federal funds;

9 “(b) Services provided by a physician as defined in ORS 677.010, a nurse
10 practitioner licensed under ORS 678.375, a behavioral health clinician or
11 other licensed practitioner within the scope of the practitioner’s practice as
12 defined by state law, and ambulance services;

13 “(c) Prescription drugs;

14 “(d) Laboratory and X-ray services;

15 “(e) Medical equipment and supplies;

16 “(f) Mental health services;

17 “(g) Chemical dependency services;

18 “(h) Emergency dental services;

19 “(i) Nonemergency dental services;

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

23 “(k) Emergency hospital services;

24 “(L) Outpatient hospital services; and

25 “(m) Inpatient hospital services.

26 “(14) ‘Income’ has the meaning given that term in ORS 411.704.

27 “(15)(a) ‘Integrated health care’ means care provided to individuals and
28 their families in a patient centered primary care home or behavioral health
29 home by licensed primary care clinicians, behavioral health clinicians and
30 other care team members, working together to address one or more of the

1 following:

2 “(A) Mental illness.

3 “(B) Substance use disorders.

4 “(C) Health behaviors that contribute to chronic illness.

5 “(D) Life stressors and crises.

6 “(E) Developmental risks and conditions.

7 “(F) Stress-related physical symptoms.

8 “(G) Preventive care.

9 “(H) Ineffective patterns of health care utilization.

10 “(b) As used in this subsection, ‘other care team members’ includes but
11 is not limited to:

12 “(A) Qualified mental health professionals or qualified mental health as-
13 sociates meeting requirements adopted by the Oregon Health Authority by
14 rule;

15 “(B) Peer wellness specialists;

16 “(C) Peer support specialists;

17 “(D) Community health workers who have completed a state-certified
18 training program;

19 “(E) Personal health navigators; or

20 “(F) Other qualified individuals approved by the Oregon Health Author-
21 ity.

22 “(16) ‘Investments and savings’ means cash, securities as defined in ORS
23 59.015, negotiable instruments as defined in ORS 73.0104 and such similar
24 investments or savings as the department or the authority may establish by
25 rule that are available to the applicant or recipient to contribute toward
26 meeting the needs of the applicant or recipient.

27 “(17) ‘Medical assistance’ means so much of the medical, mental health,
28 preventive, supportive, palliative and remedial care and services as may be
29 prescribed by the authority according to the standards established pursuant
30 to ORS 414.065, including premium assistance and payments made for ser-

1 vices provided under an insurance or other contractual arrangement and
2 money paid directly to the recipient for the purchase of health services and
3 for services described in ORS 414.710.

4 “(18) ‘Medical assistance’ includes any care or services for any individual
5 who is a patient in a medical institution or any care or services for any in-
6 dividual who has attained 65 years of age or is under 22 years of age, and
7 who is a patient in a private or public institution for mental diseases. Except
8 as provided in ORS 411.439 and 411.447, ‘medical assistance’ does not include
9 care or services for a resident of a nonmedical public institution.

10 “(19) **‘Mental health drug’ means a type of legend drug, as defined**
11 **in ORS 414.325, specified by the Oregon Health Authority by rule, in-**
12 **cluding but not limited to:**

13 **“(a) Therapeutic class 7 ataractics-tranquilizers; and**

14 **“(b) Therapeutic class 11 psychostimulants-antidepressants.**

15 “[19] (20) ‘Patient centered primary care home’ means a health care
16 team or clinic that is organized in accordance with the standards established
17 by the Oregon Health Authority under ORS 414.655 and that incorporates the
18 following core attributes:

19 “(a) Access to care;

20 “(b) Accountability to consumers and to the community;

21 “(c) Comprehensive whole person care;

22 “(d) Continuity of care;

23 “(e) Coordination and integration of care; and

24 “(f) Person and family centered care.

25 “[20] (21) ‘Peer support specialist’ means any of the following individ-
26 uals who meet qualification criteria adopted by the authority under ORS
27 414.665 and who provide supportive services to a current or former consumer
28 of mental health or addiction treatment:

29 “(a) An individual who is a current or former consumer of mental health
30 treatment; or

1 “(b) An individual who is in recovery, as defined by the Oregon Health
2 Authority by rule, from an addiction disorder.

3 “[(21)] **(22)** ‘Peer wellness specialist’ means an individual who meets
4 qualification criteria adopted by the authority under ORS 414.665 and who
5 is responsible for assessing mental health and substance use disorder service
6 and support needs of a member of a coordinated care organization through
7 community outreach, assisting members with access to available services and
8 resources, addressing barriers to services and providing education and in-
9 formation about available resources for individuals with mental health or
10 substance use disorders in order to reduce stigma and discrimination toward
11 consumers of mental health and substance use disorder services and to assist
12 the member in creating and maintaining recovery, health and wellness.

13 “[(22)] **(23)** ‘Person centered care’ means care that:

14 “(a) Reflects the individual patient’s strengths and preferences;

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

17 “(c) Is based upon the patient’s goals and will assist the patient in
18 achieving the goals.

19 “[(23)] **(24)** ‘Personal health navigator’ means an individual who meets
20 qualification criteria adopted by the authority under ORS 414.665 and who
21 provides information, assistance, tools and support to enable a patient to
22 make the best health care decisions in the patient’s particular circumstances
23 and in light of the patient’s needs, lifestyle, combination of conditions and
24 desired outcomes.

25 “[(24)] **(25)** ‘Prepaid managed care health services organization’ means a
26 managed dental care, mental health or chemical dependency organization
27 that contracts with the authority under ORS 414.654 or with a coordinated
28 care organization on a prepaid capitated basis to provide health services to
29 medical assistance recipients.

30 “[(25)] **(26)** ‘Quality measure’ means the health outcome and quality

1 measures and benchmarks identified by the Health Plan Quality Metrics
2 Committee and the metrics and scoring subcommittee in accordance with
3 ORS 413.017 (4) and 414.638.

4 “[~~(26)~~] **(27)** ‘Resources’ has the meaning given that term in ORS 411.704.
5 For eligibility purposes, ‘resources’ does not include charitable contributions
6 raised by a community to assist with medical expenses.

7 “[~~(27)(a)~~] **(28)(a)** ‘Youth support specialist’ means an individual who meets
8 qualification criteria adopted by the authority under ORS 414.665 and who,
9 based on a similar life experience, provides supportive services to an indi-
10 vidual who:

11 “(A) Is not older than 30 years of age; and

12 “(B)(i) Is a current or former consumer of mental health or addiction
13 treatment; or

14 “(ii) Is facing or has faced difficulties in accessing education, health and
15 wellness services due to a mental health or behavioral health barrier.

16 “(b) A ‘youth support specialist’ may be a peer wellness specialist or a
17 peer support specialist.

18 **“SECTION 3.** ORS 414.325 is amended to read:

19 “414.325. (1) As used in this section:

20 “(a) ‘Legend drug’ means any drug requiring a prescription by a practi-
21 tioner, as defined in ORS 689.005.

22 “(b) ‘Urgent medical condition’ means a medical condition that arises
23 suddenly, is not life-threatening and requires prompt treatment to avoid the
24 development of more serious medical problems.

25 “(2) A licensed practitioner may prescribe such drugs under this chapter
26 as the practitioner in the exercise of professional judgment considers appro-
27 priate for the diagnosis or treatment of the patient in the practitioner’s care
28 and within the scope of practice. Prescriptions shall be dispensed in the ge-
29 neric form pursuant to ORS 689.515 and pursuant to rules of the Oregon
30 Health Authority unless the practitioner prescribes otherwise and an excep-

1 tion is granted by the authority.

2 “(3) Except as provided in subsections (4) and (5) of this section, the au-
3 thority shall place no limit on the type of legend drug that may be prescribed
4 by a practitioner, but the authority shall pay only for drugs in the generic
5 form unless:

6 “(a) An exception has been granted by the authority; or

7 “(b) **For a mental health drug, the prescription specifies ‘dispense
8 as written’ or contains the notation ‘D.A.W.’ or words of similar
9 meaning.**

10 “(4) Notwithstanding subsection (3) of this section, an exception must be
11 applied for and granted before the authority is required to pay for minor
12 tranquilizers and amphetamines and amphetamine derivatives, as defined by
13 rule of the authority.

14 “(5)(a) Notwithstanding subsections (1) to (4) of this section and except
15 as provided in paragraph (b) of this subsection, the authority is authorized
16 to:

17 “(A) Withhold payment for a legend drug when federal financial partic-
18 ipation is not available; and

19 “(B) Require prior authorization of payment for drugs that the authority
20 has determined should be limited to those conditions generally recognized
21 as appropriate by the medical profession.

22 “(b) The authority may not require prior authorization for:

23 “(A) Therapeutic classes of nonsedating antihistamines and nasal
24 inhalers, as defined by rule by the authority, when prescribed by an allergist
25 for treatment of any of the following conditions, as described by the Health
26 Evidence Review Commission on the funded portion of its prioritized list of
27 services:

28 “[A] (i) Asthma;

29 “[B] (ii) Sinusitis;

30 “[C] (iii) Rhinitis; or

1 “[(D)] (iv) Allergies[.]; or

2 **“(B) A mental health drug prescribed for a medical assistance re-**
3 **ci-ent if the recipient has been in a course of treatment with the drug**
4 **during the preceding 365-day period.**

5 “(6) The authority shall pay a rural health clinic for a legend drug pre-
6 scribed and dispensed under this chapter by a licensed practitioner at the
7 rural health clinic for an urgent medical condition if:

8 “(a) There is not a pharmacy within 15 miles of the clinic;

9 “(b) The prescription is dispensed for a patient outside of the normal
10 business hours of any pharmacy within 15 miles of the clinic; or

11 “(c) No pharmacy within 15 miles of the clinic dispenses legend drugs
12 under this chapter.

13 “(7) Notwithstanding ORS 414.334, the authority may conduct prospective
14 drug utilization review in accordance with ORS 414.351 to 414.414.

15 “(8) Notwithstanding subsection (3) of this section, the authority may pay
16 a pharmacy for a particular brand name drug rather than the generic version
17 of the drug after notifying the pharmacy that the cost of the particular brand
18 name drug, after receiving discounted prices and rebates, is equal to or less
19 than the cost of the generic version of the drug.

20 “(9)(a) Within 180 days after the United States patent expires on an
21 immunosuppressant drug used in connection with an organ transplant, the
22 authority shall determine whether the drug is a narrow therapeutic index
23 drug.

24 “(b) As used in this subsection, ‘narrow therapeutic index drug’ means a
25 drug that has a narrow range in blood concentrations between efficacy and
26 toxicity and requires therapeutic drug concentration or pharmacodynamic
27 monitoring.

28 **“SECTION 4.** ORS 414.361 is amended to read:

29 “414.361. (1) The Pharmacy and Therapeutics Committee shall advise the
30 Oregon Health Authority on:

1 “(a) Adoption of rules to implement ORS 414.351 to 414.414 in accordance
2 with ORS chapter 183.

3 “(b) Implementation of the medical assistance program retrospective and
4 prospective programs as described in ORS 414.351 to 414.414, including the
5 type of software programs to be used by the pharmacist for prospective drug
6 use review and the provisions of the contractual agreement between the state
7 and any entity involved in the retrospective program.

8 “(c) Development of and application of the criteria and standards to be
9 used in retrospective and prospective drug use review in a manner that en-
10 sures that such criteria and standards are based on compendia, relevant
11 guidelines obtained from professional groups through consensus-driven pro-
12 cesses, the experience of practitioners with expertise in drug therapy, data
13 and experience obtained from drug utilization review program operations.
14 The committee shall have an open professional consensus process for estab-
15 lishing and revising criteria and standards. Criteria and standards shall be
16 available to the public. In developing recommendations for criteria and
17 standards, the committee shall establish an explicit ongoing process for so-
18 liciting and considering input from interested parties. The committee shall
19 make timely revisions to the criteria and standards based upon this input in
20 addition to revisions based upon scheduled review of the criteria and stan-
21 dards. Further, the drug utilization review standards shall reflect the local
22 practices of prescribers in order to monitor:

23 “(A) Therapeutic appropriateness.

24 “(B) Overutilization or underutilization.

25 “(C) Therapeutic duplication.

26 “(D) Drug-disease contraindications.

27 “(E) Drug-drug interactions.

28 “(F) Incorrect drug dosage or drug treatment duration.

29 “(G) Clinical abuse or misuse.

30 “(H) Drug allergies.

1 “(d) Development, selection and application of and assessment for inter-
2 ventions that are educational and not punitive in nature for medical assist-
3 ance program prescribers, dispensers and patients.

4 “(2) In reviewing retrospective and prospective drug use, the committee
5 may consider only drugs that have received final approval from the federal
6 Food and Drug Administration.

7 “(3) The committee shall make recommendations to the authority, subject
8 to approval by the Director of the Oregon Health Authority or the director’s
9 designee, for drugs to be included on any preferred drug list adopted by the
10 authority and on the Practitioner-Managed Prescription Drug Plan. The
11 committee shall also recommend all utilization controls, prior authorization
12 requirements or other conditions for the coverage of a drug.

13 “(4) In making recommendations under subsection (3) of this section, the
14 committee may use any information the committee deems appropriate. The
15 recommendations must be based upon the following factors in order of pri-
16 ority:

17 “(a) Safety and efficacy of the drug.

18 “(b) The ability of Oregonians to access effective prescription drugs that
19 are appropriate for their clinical conditions.

20 “(c) **For mental health drugs, the recommendations of the Mental**
21 **Health Clinical Advisory Group.**

22 “[c)] (d) Substantial differences in the costs of drugs within the same
23 therapeutic class.

24 “(5)(a) No later than seven days after the date on which the committee
25 makes a recommendation under subsection (3) of this section, the committee
26 shall publish the recommendation on the website of the authority.

27 “(b) As soon as practicable after the committee makes a recommendation,
28 the director shall decide whether to approve, disapprove or modify the rec-
29 ommendation, shall publish the decision on the website and shall notify
30 persons who have requested notification of the decision.

1 “(c) Except as provided in subsection (6) of this section, a recommen-
2 dation approved by the director, in whole or in part, with respect to the
3 inclusion of a drug on a preferred drug list or the Practitioner-Managed
4 Prescription Drug Plan may not become effective less than seven days after
5 the date that the director’s decision is published on the website.

6 “(6)(a) The director may allow the immediate implementation of a recom-
7 mendation described in subsection (5)(c) of this section if the director deter-
8 mines that immediate implementation is necessary to protect patient safety
9 or to comply with state or federal requirements.

10 “(b) The director shall reconsider any decision to approve, disapprove or
11 modify a recommendation described in subsection (5)(c) of this section upon
12 the request of any interested person filed no later than seven days after the
13 director’s decision is published on the website of the authority. The
14 director’s determination regarding the request for reconsideration shall be
15 sent to the requester and posted to the website without undue delay. Upon
16 receipt of a request for reconsideration, the director may:

17 “(A) Delay the implementation of the recommendation pending the re-
18 consideration process; or

19 “(B) Implement the recommendation if the director determines that delay
20 could reasonably result in harm to patient safety or would violate state or
21 federal requirements.

22 **“SECTION 5. The amendments to ORS 414.025, 414.325 and 414.361**
23 **by sections 2 to 4 of this 2021 Act become operative on January 2,**
24 **2026.”.**

25 In line 8, delete “2” and insert “6”.

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