A-Engrossed
House Bill 4035

Ordered by the House February 16
Including House Amendments dated February 16

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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 to study and make recommendations for options to improve access to or lower cost of health care in Oregon. Requires authority to implement recommendations to extent of agency's existing statutory authority and report to interim committees of Legislative Assembly related to health any legislative changes necessary to fully implement recommendations.*]

Requires Oregon Health Authority, in collaboration with Department of Human Services, to develop and, subject to approval by Centers for Medicare and Medicaid Services, implement process for conducting medical assistance program redeterminations, when public health emergency ends, consistent with stated goals of Legislative Assembly. Grants, subject to conditions, specified flexibility to authority and department with respect to timing of redeterminations and timelines for obtaining eligibility information from enrollees. Authorizes temporary waiver of statutory limits on disclosure of enrollee information. Sunsets January 2, 2024.

Requires authority and department to develop outreach and enrollment assistance program and broad communications strategy, with advice of community and partner work group. Specifies membership of work group. Requires authority and department to provide monthly updates on communications, outreach and navigation assistance activities to interim committees of Legislative Assembly related to health, Medicaid Advisory Committee and Health Insurance Exchange Advisory Committee. Sunsets January 2, 2024.

Establishes task force to develop proposal for bridge program to provide affordable health insurance coverage and improve continuity of coverage for individuals who regularly enroll and disenroll in medical assistance program due to frequent fluctuations in income. Specifies membership of task force. Requires, no later than May 31, 2022, task force to submit report with recommendations to interim committees of Legislative Assembly related to health, subcommittee of Joint Interim Committee on Ways and Means related to human services, President of Senate, Speaker of House of Representative and Legislative Fiscal Officer. Sunsets January 2, 2024.

Requires authority to submit to Centers for Medicare and Medicaid Services request for federal approval necessary to secure federal financial participation in costs of administering bridge program. Requires authority to implement bridge program upon receipt of federal approval.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health care; and declaring an emergency.

Whereas as a result of the unprecedented public health emergency, the federal government adopted a national policy of continuing the enrollment of individuals in medical assistance programs to ensure as many individuals as possible maintain coverage through the pandemic and the public health emergency; and

Whereas Congress authorized reductions in administrative barriers to enrolling in medical assistance programs, such as permitting applicants to self-attest to certain eligibility criteria, to make it easier for eligible individuals to enroll in medical assistance programs; and

Whereas as a result, Oregon, along with other states, has provided continuous eligibility for

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.

individuals enrolled in the medical assistance program and that has led to greater access to health care in Oregon; and

Whereas Oregon, along with other states, has experienced a significant increase in the medical assistance program caseload such that more than 95.4 percent of Oregonians are enrolled in health care coverage, a rate higher than ever before; and

Whereas Oregon has also seen a significant reduction in inequities in health care coverage in 2021, and in particular the rate of uninsurance for Black or African American individuals, from 8.2 percent to 5 percent; and

Whereas in Oregon the continuous enrollment policy has substantially reduced the number of individuals who leave the medical assistance program and reenroll a short time later due to fluctuations in income, a phenomena known as "churn"; and

Whereas when the public health emergency ends, Oregon will be faced with the unprecedented situation of having to redetermine eligibility for everyone enrolled in the medical assistance program with the potential of having hundreds of thousands of Oregonians exit the medical assistance program and lose access to health care; now, therefore,

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

SECTION 1. It is the goal of the Legislative Assembly to:

(1) Develop a thoughtful, methodical and successful medical assistance redetermination process that supports the Legislative Assembly's goals of maintaining access to insurance coverage and reducing the rate of uninsurance in this state;

(2) Provide adequate time for outreach to individuals to renew their coverage under the medical assistance program and, for individuals leaving the medical assistance program, provide adequate time to transition to other health insurance coverage;

(3) Maintain, to the maximum extent possible, enrollment in the medical assistance program for as many eligible individuals as possible;

(4) Create new options for affordable health insurance coverage that allows for continuity of coverage and care for the individuals who regularly enroll and disenroll in the medical assistance program due to frequent fluctuations in income;

(5) Adopt processes and policies that maintain or improve the current reductions in uninsured rates for priority populations;

(6) Forestall termination of coverage under the medical assistance program for current enrollees with incomes at or below 200 percent of the federal poverty guidelines until December 31, 2023, when it is estimated that adequate plans will be in place to carry out the goals of the Legislative Assembly described in this section; and

(7) Authorize the Oregon Health Authority to obtain federal approvals to make program changes that are necessary to carry out the goals of the Legislative Assembly described in this section while ensuring legislative oversight over the authority's budget and the authority's adherence to established timelines.

SECTION 2. (1) The Oregon Health Authority, in collaboration with the Department of Human Services, shall develop a process for conducting medical assistance program redeterminations following the end of the public health emergency declared by the Governor on March 8, 2020, that, to maximum extent practicable, achieves the goals of the Legislative Assembly reflected in section 1 of this 2022 Act no later than May 31, 2022. The authority and the department shall submit a report describing the process, including an operational timeline, to the interim committees of the Legislative Assembly related to health, the sub-

committee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer. The report shall include dissenting opinions from within the authority and the department or the public, if any.

(2) The authority and the department shall make the report and information about the redetermination process available on a publicly accessible website. The authority and the department shall update the report and timeline as needed to reflect changes in requirements imposed by the Centers for Medicare and Medicaid Services or changes to the federal public health emergency timeline. The authority and the department shall make the interim committees of the Legislative Assembly related to health, the subcommittee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer aware of any changes to the timeline and provide the reason for any such change.

(3) When the public health emergency ends and the redetermination process begins, the authority and the department shall make publicly available on a monthly basis a report that monitors and tracks data on enrollment, renewal of enrollment and disenrollment in the medical assistance program. The authority and the department shall produce and maintain an online dashboard with disaggregated data on enrollment and disenrollment as it is reported to the Centers for Medicare and Medicaid Services, to assess the disproportionate impact on communities of color, persons with lower incomes and other populations that face disparities. The data shall be displayed on the dashboard in a manner to clearly reflect progress in processing the redeterminations.

(4) After the public health emergency ends, the authority shall maintain the continuous enrollment policy for the medical assistance program that was in effect during the public health emergency until the first of the reports described in subsection (3) of this section have been made available or until May 31, 2022, whichever is later.

(5) The authority shall submit a request to the Legislative Assembly for resources needed to implement the redetermination process developed under subsection (1) of this section and to begin the redeterminations.

(6)(a) To maintain coverage for Oregonians and minimize the risk of disruptions in coverage or care for high-risk populations or populations at risk of becoming uninsured, the authority and the department are granted flexibility on the:

(A) Timing of the date redeterminations begin once the public health emergency ends, and whether to phase or stagger redeterminations to achieve the goals of the Legislative Assembly described in section 1 of this 2022 Act; and

(B) Timelines for obtaining eligibility information from enrollees, or for beginning the process for terminating coverage, to allow for adequate outreach and enrollment assistance to enrollees losing coverage.

(b) The flexibility granted under this subsection ends on December 31, 2023. If necessary, the authority and the department may seek legislative approval during the 2023 regular session of the Legislative Assembly to extend the flexibility granted under this subsection.

(7) Subject to subsection (8) of this section, the authority and the department may temporarily waive the limits on disclosure of enrollee information under ORS 410.150, 411.320, 413.175, 741.510 or any state laws that limit disclosure, to promote greater information sharing with community partners that are assisting individuals who are reapplying for or

seeking to maintain eligibility in the medical assistance program or who are in transition to coverage under the health insurance exchange, but only to the extent necessary to:

(a) Conduct outreach;

(b) Allow coordinated care organizations and insurers to conduct outreach and enrollment assistance; and

(c) Gather and submit to the authority and the department updated contact information.

(8) The authority and the department must ensure appropriate consumer protections are considered before waiving any specific statutory requirements under subsection (7) of this section and any waiver must be reported to the interim committees of the Legislative Assembly related to health, the subcommittee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.

(9) Once the Centers for Medicare and Medicaid Services approves the redetermination process, the authority and the department may adopt rules or conduct emergency procurements necessary to ensure rules and resources are in place when needed to implement the process for conducting medical assistance redeterminations after the public health emergency ends, once approved by the Centers for Medicare and Medicaid Services.

SECTION 3. (1) The Oregon Health Authority and the Department of Human Services shall immediately convene a community and partner work group to develop an outreach and enrollment assistance program and a broad communications strategy to communicate and assist enrollees in the medical assistance program in navigating the redetermination process and the enrollees' transition to coverage through the health insurance exchange.

(2) The work group must include representatives of impacted health systems, community partners, organized labor, consumers and other members selected by the authority and the department consistent with this section. The authority and the department shall determine the term of each member of the work group.

(3) The work group must include one or more members of, and solicit input from, the Medicaid Advisory Committee and the Health Insurance Exchange Advisory Committee.

(4) The authority and the department shall jointly provide staffing to the work group.

(5) The work group shall consider various strategies to achieve the goals of the Legislative Assembly described in section 1 of this 2022 Act, including, but not limited to:

(a) Strategies for updating contact information for enrollees in the medical assistance program, including conducting outreach to enrollees whose mail is returned, using:

(A) Electronic mail, text messages and updated mailings;

(B) Data sources such as the member portal; and

(C) Data from immunization registries, Supplemental Nutrition Assistance Program data, Pandemic Electronic Benefits Transfer data, Health Information Exchange data, coordinated care organization data and focused media campaigns.

(b) Strategies for outreach and communication with enrollees in the medical assistance program to maximize awareness of the redetermination process when the public health emergency declared by the Governor on March 8, 2020, ends and the availability of navigational assistance to those enrollees who will need to transition to other forms of coverage.

(c) Communication and engagement with providers and partners, including coordinated care organizations, health care providers, community-based organizations, enrollment brokers and application and enrollment assisters, who can bring urgency to every enrollee

interaction and help with updating contacts and spreading awareness of the redetermination process.

(d) Strategies for providing navigational assistance to enrollees in the medical assistance program who will need to transition to other forms of coverage, including tailored assistance from the authority's Community Partner Outreach Program, the health insurance exchange outreach and assistance program and the department and staff of area agencies, as defined in ORS 410.040.

(e) Strategies for conducting eligibility determinations to minimize the loss of enrollees' medical assistance program coverage, which may include but are not limited to:

(A) Implementation of changes to the process for ex parte or automatic renewals of eligibility to increase the percentage of renewals that can be completed without requesting additional information from enrollees;

(B) Prepopulated renewal forms;

(C) Clear and streamlined instructions for enrollees;

(D) Post-eligibility verification processes that allow for continued enrollment while eligibility is verified;

(E) Extended deadlines for enrollees to respond to requests for verification of eligibility; and

(F) Application assisters to focus on specific challenges the system poses for enrollees who have changed addresses or who experience seasonal variations in income and other circumstances.

(f) Strategies for phasing in renewals over a 12-month period, to maximize retention of coverage and minimize the burden of renewal, particularly for individuals and families who are facing renewals in multiple benefit programs, such as the Supplemental Nutrition Assistance Program, the temporary assistance for needy families program and the Employment Related Day Care program. The work group shall consider the following criteria for grouping enrollees for the purpose of phasing the renewals:

(A) The viability of automatically renewing eligibility for a group;

(B) The income level of the group members;

(C) The age of the group members;

(D) The parent or caretaker status of group members;

(E) Pregnancy or postpartum condition or other health status of the group members; and

(F) Recent or frequent address changes by the group.

(6) No later than May 31, 2022, the authority and the department shall submit a report to the interim committees of the Legislative Assembly related to health summarizing the strategies developed for communications, outreach and navigation assistance, including recommendations to the Emergency Board for additional resources needed in addition to those included in the agencies' budgets.

(7) Once redeterminations commence following the end of the public health emergency, the authority and the department shall provide monthly updates on the authority and the department's communications, outreach and navigation assistance activities to the interim committees of the Legislative Assembly related to health, the Medicaid Advisory Committee and the Health Insurance Exchange Advisory Committee.

SECTION 4. (1) A task force to create a bridge program is established.

(2) The task force consists of the following members:

(a) The President of the Senate shall appoint two members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives.

(c) The President and the Speaker shall jointly appoint the following members:

(A) A representative of low-income workers who are likely to be eligible for the bridge program.

(B) Two health equity experts.

(C) An expert in health insurance navigation assistance for consumers.

(D) A representative of organized labor.

(E) A representative of an insurer that offers qualified health plans on the health insurance exchange.

(F) A representative of a coordinated care organization that does not offer plans on the health insurance exchange.

(G) Two members representing health care providers.

(H) A representative of the Medicaid Advisory Committee.

(I) A representative of the Health Insurance Exchange Advisory Committee.

(d) The chairperson of the Oregon Health Policy Board or the chairperson's designee.

(e) The Director of the Oregon Health Authority or the director's designee.

(f) The Director of Human Services or the director's designee.

(3) The task force shall develop a proposal for a bridge program to provide affordable health insurance coverage and improve the continuity of coverage for individuals who regularly enroll and disenroll in the medical assistance program or other health care coverage due to frequent fluctuations in income.

(4) No later than May 31, 2022, the task force must complete the proposal for a bridge program and prepare a report containing recommendations and a request for additional funding, if necessary, to the interim committees of the Legislative Assembly related to health, the subcommittee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.

(5) The recommendations and proposal for a bridge program must:

(a) Prioritize health equity, reduction in the rate of uninsurance in this state and the promotion of continuous health care coverage for communities that have faced health inequities.

(b) Be consistent with the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.570 and enhance the coordinated care organization delivery system.

(c) Ensure that the bridge program is available to all individuals lawfully present in this state with incomes between 138 and 200 percent of the federal poverty guidelines.

(d) Maximize leveraging of federal funds and minimize costs to enrollees in the program and to the state budget.

(e) Provide, at a minimum, all essential health benefits, as defined in ORS 731.097.

(f) To the extent practicable, include an option that has no cost-sharing, deductibles or other out-of-pocket costs and an option that provides lesser cost-sharing, deductibles or other out-of-pocket costs than qualified health plans on the health insurance exchange.

(g) Establish a capitation rate to be paid to providers that is sufficient to maintain budget neutrality in the bridge program, but with reimbursement rates that are higher than the current medical assistance reimbursement rates, to the extent practicable.

(h) Offer health care coverage through coordinated care organizations and align procurements for service providers on the same cycle as the procurements cycle for coordinated care organizations.

(i) Provide a transition period for individuals enrolled in the medical assistance program to transfer to the bridge program.

(j) Take into account the health insurance exchange as an option for potential bridge program participants if the participants choose to opt out of the bridge program.

(k) Include a mechanism to allow coordinated care organizations to offer bridge program plans on the health insurance exchange if the plans meet criteria established by the Oregon Health Authority.

(L) Include a funding allocation for the development of the bridge program including contractor services, actuarial services and other costs identified by the authority and the Department of Human Services to perform this work.

(m) Require coordinated care organizations to accept enrollees in the bridge program or for the authority to contract with a new entity to accept bridge program enrollees.

(6) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(7) Official action by the task force requires the approval of a majority of the voting members of the task force.

(8) The task force shall elect one of its members to serve as chairperson.

(9) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(10) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(11) The task force may adopt rules necessary for the operation of the task force.

(12) The Director of the Legislative Policy and Research Office shall provide staff support to the task force.

(13) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(14) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(15) The authority and the department are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 5. (1) The Oregon Health Authority shall submit to the Centers for Medicare and Medicaid Services a request for any federal approval necessary to secure federal financial participation in the costs of administering the bridge program developed by the task force in accordance with section 4 of this 2022 Act, to provide affordable health care coverage, improve the continuity of coverage and care for Oregonians and reduce health inequities for individuals who regularly enroll and disenroll in the medical assistance program due to

fluctuations in their incomes.

(2) The authority shall implement the bridge program upon receipt of the necessary approval from the Centers for Medicare and Medicaid Services.

SECTION 6. Section 5 of this 2022 Act is amended to read:

Sec. 5. [*(1)*] The Oregon Health Authority shall [*submit to the Centers for Medicare and Medicaid Services a request for any federal approval necessary to secure federal financial participation in the costs of administering the bridge program developed by the task force in accordance with section 4 of this 2022 Act,*] **administer a bridge program** to provide affordable health care coverage, improve the continuity of coverage and care for Oregonians and reduce health inequities for individuals who regularly enroll and disenroll in the medical assistance program due to fluctuations in their incomes.

[*(2) The authority shall implement the bridge program upon receipt of the necessary approval from the Centers for Medicare and Medicaid Services.*]

SECTION 7. Sections 1 to 4 of this 2022 Act are repealed on January 2, 2024.

SECTION 8. The amendments to section 5 of this 2022 Act by section 6 of this 2022 Act become operative upon receipt of federal approval to secure federal financial participation in the costs of the bridge program as described in section 5 of this 2022 Act.

SECTION 9. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.