

## HB 4003 -3 STAFF MEASURE SUMMARY

### House Committee On Health Care

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**Prepared By:** Alexandra Kihn-Stang, LPRO Analyst

**Meeting Dates:** 2/3, 2/12

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#### WHAT THE MEASURE DOES:

The measure removes the Prioritized List of Health Services from statute and replaces with the term clinical coverage policies, directs the Health Evidence Review Commission to develop and maintain clinical coverage policies, and directs the Oregon Health Authority to use rulemaking to define medical necessity, the role of clinical coverage policies in determining health services coverage for medical assistance recipients, and prescribe an appeals process. Requires investigations related to provisions of the measure.

#### Detailed Summary:

- Modifies language in statute, including replacing use of the Prioritized List of Health Services with "clinical coverage policies."
- Directs the Oregon Health Authority (OHA) to use rulemaking to:
  - define medical necessity and required criteria for determining medical necessity,
  - define the role of clinical coverage policies in determining the extent of health services to be provided to medical assistance recipients, and
  - prescribe an appeals process for coverage denials that allows individual medical review.
- Directs the Health Evidence Review Commission (HERC) to:
  - adopt rules to prevent undue outside influence, and
  - develop and maintain clinical coverage policies and specifies what should be included in those policies.
- Repeals requirement that the HERC review and report to the Legislative Assembly regarding recommended changes to coverage for reproductive health services.
- Directs OHA investigate clinical coverage policies, including: the process for implementing coverage decisions for the state medical assistance program, opportunities for alignment between the fee-for-service payment system and the Oregon Integrated and Coordinated Health Care Delivery System. Directs OHA and the HERC to investigate the development of diagnosis and treatment code pairings in determining medical necessity. Requires a report to the interim committees of the Legislative Assembly related to health by January 1, 2027.
- Requires OHA to make certain materials, including clinical coverage policies, publicly available online; develop technical assistance materials; direct the HERC to determine whether utilization data are available and can be used in developing clinical coverage policies; and complete actuarial analysis of available data to inform medical assistance rates and specifies where to report actuarial findings.
- Declares an emergency, effective upon passage.

#### ISSUES DISCUSSED:

- The history of the Prioritized List of Health Services in Oregon
- The Oregon Health Plan
- Impacts of changing reference to the Prioritized List in statute

#### EFFECT OF AMENDMENT:

-3 Replaces the measure.

- Modifies permitted use of the Prioritized List of Health Care Services in determining coverage of services by the Oregon Health Plan.
- Directs OHA and HERC to study changes to the Prioritized List and to submit a report to the Legislative Assembly by January 1, 2027.

- Directs OHA to make changes to the Prioritized List through the State Plan amendment rather than through an 1115 Demonstration Waiver. Stipulates considerations for transition.
- Declares an emergency, effective upon passage.

*Fiscal impact: Has minimal fiscal impact.*

*Revenue impact: No revenue impact.*

**BACKGROUND:**

Oregon's Health Evidence Review Commission (HERC) is a commission of individuals with varied expertise that determines the medical necessity and cost effectiveness of treatments covered by the state medical assistance program, the Oregon Health Plan (OHP). Created through legislation in 1989, HERC determines which medical procedures, devices, and tests included on Oregon's Prioritized List of Health Services will be covered by OHP. In accomplishing this task, HERC utilizes the best available information and evidence on clinical and cost effectiveness. The Prioritized List is unique to Oregon where it has been used since 1994; the list is revised every two years as part of the biennial budget process.

Both the HERC and the Prioritized List have been permitted through an 1115 demonstration waiver with the Centers for Medicare and Medicaid Services (CMS), a five-year waiver intended to allow for testing innovations to the state Medicaid program. CMS stipulated with approval of the 1115 Waiver for 2022-2027 that the Prioritized List would not be approved in future waivers. Beginning in 2027, the Oregon Health Authority (OHA) will follow federal regulations used to govern all state Medicaid plans. Under this process, OHA will group services into categories set by the federal government, including some categories that are mandatory and some that are optional. Within mandatory categories, OHA will cover all medically necessary services, while OHA will determine which services will be covered within optional categories based on continued guidance from HERC.

House Bill 4003 modifies language in statute to replace reference to the Prioritized List of Health Services with the term "clinical coverage policies." The measure directs OHA to define medical necessity, establish criteria for determining medical necessity, and prescribe an appeals process for coverage denials; directs the HERC to develop and maintain clinical coverage policies; and requires specified investigations related to provisions of the measure.