

House Bill 3057

Sponsored by Representative KOTEK

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 **as introduced**.

Creates assessment by Department of Revenue upon patient care, items or services provided by specified categories of health care providers.

Requires moneys collected by Department of Revenue from assessment be deposited to Oregon Health Plan Fund.

A BILL FOR AN ACT

1
2 Relating to provider assessment; and providing for revenue raising that requires approval by a
3 three-fifths majority.

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

5 **SECTION 1. Sections 2 to 10 of this 2007 Act are added to and made a part of ORS**
6 **chapter 320.**

7 **SECTION 2. As used in sections 2 to 10 of this 2007 Act:**

8 (1) **"Charity care" means costs for providing patient care, items or services free of**
9 **charge or at a reduced charge because of the indigence or lack of health insurance of the**
10 **patient receiving the care, items or services.**

11 (2) **"Contractual adjustments" means the difference between the amounts charged based**
12 **on the provider's full established charges and the amount received or due from the payor.**

13 (3) **"Net revenue":**

14 (a) **Means the total amount of billed charges for care, items or services provided by the**
15 **provider to patients, less charity care, bad debts, contractual adjustments and assessments**
16 **paid under ORS 735.614; and**

17 (b) **Does not include any revenue that is taken into account in computing a provider tax**
18 **assessment under sections 1 to 9, 15 to 22, 37 to 44 and 52 to 59, chapter 736, Oregon Laws**
19 **2003.**

20 (4) **"Provider" means a person that provides:**

21 (a) **Inpatient hospital services;**

22 (b) **Outpatient hospital services;**

23 (c) **Nursing facility services other than services of intermediate care facilities for the**
24 **mentally retarded;**

25 (d) **Intermediate care facility services for the mentally retarded, and similar services**
26 **furnished by community-based residences for the mentally retarded, under a federal waiver**
27 **under section 1915(c) of the Social Security Act, if at least 85 percent of the facilities in**
28 **Oregon were classified as intermediate care facilities for the mentally retarded prior to the**
29 **grant of the waiver;**

30 (e) **Physician services;**

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 (f) Home health care services;
- 2 (g) Patient care items or services through a health maintenance or health insuring or-
- 3 ganizational structure;
- 4 (h) Outpatient prescription drugs;
- 5 (i) Ambulatory surgical center services, as described for purposes of the Medicare pro-
- 6 gram in section 1832(a)(2)(F)(i) of the Social Security Act, including facility services only and
- 7 not surgical procedures;
- 8 (j) Dental services;
- 9 (k) Podiatric services;
- 10 (L) Chiropractic services;
- 11 (m) Optometric or optician services;
- 12 (n) Psychological services;
- 13 (o) Therapist services, including physical therapy, speech therapy, occupational therapy,
- 14 respiratory therapy, audiological services and rehabilitative services;
- 15 (p) Nursing services, including services of nurses, nurse midwives, nurse practitioners
- 16 and private duty nurses;
- 17 (q) Laboratory and X-ray services, including services provided in a licensed, free-standing
- 18 laboratory or X-ray facility but not including laboratory or X-ray services provided in a
- 19 physician's office, hospital inpatient department or hospital outpatient department; and
- 20 (r) Emergency ambulance services.

21 **SECTION 3.** (1) An assessment is imposed on each provider in this state. The assessment
 22 shall equal _____ percent of the provider's net revenue for a calendar year.

23 (2) The assessment shall be reported on a form prescribed by the Department of Revenue
 24 and shall contain the information required to be reported by the department. The assessment
 25 form shall be filed with the department on or before the _____ day following the end of the
 26 _____ for which the assessment is being reported. The provider shall pay the assessment
 27 at the time the provider files the assessment report. The payment shall accompany the re-
 28 port.

29 **SECTION 4.** Notwithstanding section 3 of this 2007 Act, the Director of the Department
 30 of Revenue may reduce the rate of assessment imposed under section 3 of this 2007 Act to
 31 the maximum rate allowed under federal law if the reduction is required to comply with
 32 federal law.

33 **SECTION 5.** (1) A provider that fails to file a report or pay an assessment under section
 34 3 of this 2007 Act by the date the report or payment is due shall be subject to a penalty of
 35 \$500 per day of delinquency. The total amount of penalties imposed under this section for
 36 each reporting period may not exceed five percent of the assessment for the reporting period
 37 for which penalties are being imposed.

38 (2) Penalties imposed under this section shall be collected by the Department of Revenue
 39 and deposited in the Oregon Health Plan Fund established under ORS 414.109.

40 **SECTION 6.** (1) A provider that has paid an amount that is not required under sections
 41 2 to 10 of this 2007 Act may file a claim for refund with the Department of Revenue.

42 (2) Any provider that is aggrieved by an action of the Department of Revenue or by an
 43 action of the Director of the Department of Revenue taken under sections 2 to 10 of this 2007
 44 Act shall be entitled to notice and an opportunity for a contested case hearing under ORS
 45 chapter 183.

1 **SECTION 7.** (1) Unless otherwise exempt, a provider shall report the payment of the as-
2 essment as an allowable cost for Medicaid reimbursement purposes.

3 (2) The Department of Revenue may audit the records of any provider in this state to
4 determine compliance with sections 2 to 10 of this 2007 Act. The department may audit re-
5 cords at any time for a period of five years following the date an assessment is due to be
6 reported and paid under section 3 of this 2007 Act.

7 **SECTION 8.** Amounts collected by the Department of Revenue from the assessment un-
8 der section 3 of this 2007 Act shall be deposited in the Oregon Health Plan Fund established
9 under ORS 414.109.

10 **SECTION 9.** Unless the context requires otherwise, the provisions of ORS chapters 305,
11 314 and 316 as to the audit and examination of reports and returns, determination of defi-
12 ciencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, war-
13 rants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto,
14 shall apply to sections 2 to 10 of this 2007 Act the same as if the tax were a tax imposed upon
15 or measured by net income. All such provisions apply to the subscriber liable for the tax and
16 to the provider required to collect the tax. As to any amount collected and required to be
17 remitted to the Department of Revenue, the tax shall be considered a tax upon the provider
18 required to collect the tax and that provider shall be considered a taxpayer.

19 **SECTION 10.** (1) Section 3 of this 2007 Act becomes operative on the day after the date
20 of receipt of all necessary federal approvals by the Centers for Medicare and Medicaid Ser-
21 vices.

22 (2) The Director of Human Services shall notify the Department of Revenue and the
23 Legislative Counsel upon receipt of the necessary federal approvals or denial of the federal
24 approvals.

25 **SECTION 11.** The assessment imposed under sections 2 to 10 of this 2007 Act applies to
26 health care provider net revenue incurred in years beginning on or after January 1, 2008.
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