

**B-Engrossed**  
**House Bill 3088**

Ordered by the House June 23  
Including House Amendments dated May 8 and June 23

Sponsored by COMMITTEE ON HEALTH CARE

**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.

Prohibits hospitals from billing to or attempting to collect from **certain** uninsured patients charges that exceed either Medicare rate or rate paid by hospital's highest volume commercial insurer. Requires hospital to provide patients with written notice explaining hospital's policy for charges to uninsured patients and to post notices of policy in conspicuous locations. Allows patient to claim treble damages and attorney fees if hospital bills or attempts to collect charges in violation of Act.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to hospitals; creating new provisions; amending ORS 442.400, 442.405 and 442.460; and pre-  
3 scribing an effective date.

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

5 **SECTION 1. Sections 2 to 5 of this 2007 Act are added to and made a part of ORS chapter**  
6 **441.**

7 **SECTION 2. As used in this section and sections 3, 4 and 5 of this 2007 Act:**

8 (1) "Family income" means the combined income of individuals who are:

9 (a) Over 18 years of age;

10 (b) Related by blood, marriage, domestic partnership or adoption; and

11 (c) Living in the same residence and sharing a common space.

12 (2) "Health benefit plan" has the meaning given that term in ORS 743.730.

13 (3) "Highest volume insurer" means the insurer or third-party payer that has a contract  
14 to pay claims for reimbursement of services provided by the hospital and that incurred the  
15 greatest number of claims from the hospital in the previous calendar year.

16 (4) "Hospital" has the meaning given that term in ORS 442.015, exclusive of special in-  
17 patient care and inpatient psychiatric facilities operated by the state.

18 (5) "Income" includes wages, salary, temporary assistance for needy families grants,  
19 Supplemental Security Income, Social Security, unemployment compensation, child support,  
20 alimony or other income that is regular and predictable.

21 (6) "Uninsured" means not receiving state medical assistance that covers hospital ser-  
22 vices and not enrolled in Medicare or a health benefit plan.

23 **SECTION 3. (1) A hospital may not charge to or attempt to collect from an uninsured**  
24 **patient whose family income is equal to or less than 350 percent of the federal poverty**  
25 **guidelines an amount for a medically necessary service in excess of the amount paid to the**

**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 hospital for the same service by Medicare or the hospital's highest volume insurer. A hos-  
2 pital must choose one payer scale for all charges under this section.

3 (2) In determining family income, a hospital may consider only income received in the  
4 month preceding the date of service. If a family member earning income is unemployed on  
5 the date of service or expected to be unable to work in the month following the date of ser-  
6 vice, that member's income from employment in the preceding month may not be considered.

7 (3) In determining the number of individuals in a family for purposes of applying the  
8 federal poverty guidelines, the patient's family includes an individual who is related to the  
9 patient by blood, marriage, domestic partnership or adoption and who is:

10 (a) Living in the same residence and sharing a common space; or

11 (b) A dependent residing out of the home to attend school.

12 (4) In determining family income under this section, a hospital:

13 (a) Must make the determination based upon an estimate provided by the person re-  
14 sponsible for paying for the hospital services;

15 (b) May not require proof of income or a release of information to obtain income infor-  
16 mation; and

17 (c) May require the person responsible for paying for the hospital services to sign a  
18 declaration under penalty of perjury that the estimate of income under paragraph (a) of this  
19 subsection, to the best of the knowledge and belief of the person, is true, correct and com-  
20 plete.

21 **SECTION 4.** (1) A hospital shall provide patients with a written notice explaining the  
22 hospital's policy for charges to uninsured patients and providing contact information for a  
23 hospital employee or office from which a person may obtain a copy of and further informa-  
24 tion about the policy. The hospital also shall provide notice to patients who receive emer-  
25 gency or outpatient care and who may be billed for that care, but who were not admitted to  
26 the hospital. The notice shall be provided in English and in languages other than English as  
27 required by state and federal law.

28 (2) The hospital shall post notices of the hospital's policy on charges to uninsured pa-  
29 tients in conspicuous locations that are visible to the public including, but not limited to:

30 (a) Emergency departments;

31 (b) Billing offices;

32 (c) Admitting offices; and

33 (d) Patient waiting areas in outpatient care settings.

34 **SECTION 5.** (1) If a hospital initiates an action for collection in violation of section 3 of  
35 this 2007 Act, the patient or the patient's representative or estate may maintain an action  
36 in any court of general equitable jurisdiction of this state, to prevent, restrain or enjoin the  
37 violation or threatened violation. If in such action, a violation or threatened violation of  
38 section 3 of this 2007 Act is established, the court shall enjoin and restrain or otherwise  
39 prohibit such violation or threatened violation, and the plaintiff in the action is entitled to  
40 recover treble the amount of damages that the patient incurred. Damages shall be the  
41 amount by which the hospital charge exceeded the amount allowed under section 3 of this  
42 2007 Act. The court may award reasonable attorney fees to the prevailing plaintiff in an  
43 action under this section.

44 (2) Actions brought under this section shall be commenced within four years from the  
45 date of the first billing.

1       **SECTION 6.** ORS 442.400 is amended to read:

2       442.400. As used in ORS 442.400 to 442.463, unless the context requires otherwise[.]:

3       (1) “Health care facility” or “facility” means [*such*] **a health care** facility as defined by ORS  
4       442.015, exclusive of a long term care facility, and includes all publicly and privately owned and  
5       operated health care facilities, but does not include facilities described in ORS 441.065.

6       (2) **“Hospital” has the meaning given that term in ORS 442.015, exclusive of special in-**  
7       **patient care and inpatient psychiatric facilities operated by the state.**

8       **SECTION 7.** ORS 442.405 is amended to read:

9       442.405. The Legislative Assembly finds that rising costs and charges of health care facilities  
10       are a matter of vital concern to the people of this state. The Legislative Assembly finds and declares  
11       that it is the policy of this state:

12       (1) To require health care facilities to file for public disclosure reports that will enable both  
13       private and public purchasers of services from such facilities to make informed decisions in pur-  
14       chasing such services; [*and*]

15       (2) To encourage development of programs of research and innovation in the methods of delivery  
16       of institutional health care services of high quality with costs and charges reasonably related to the  
17       nature and quality of the services rendered[.]; **and**

18       (3) **To endeavor to improve access to health care for all Oregonians and ensure that**  
19       **health care resources are equitably distributed among all populations.**

20       **SECTION 8.** ORS 442.460 is amended to read:

21       442.460. In order to obtain regional or statewide data about the utilization and cost of health  
22       care services, the Office for Oregon Health Policy and Research may accept information relating to  
23       the **quality**, utilization, [*and*] cost **and cost efficiency** of health care services identified by the  
24       Administrator of the Office for Oregon Health Policy and Research from physicians, insurers or  
25       other third-party payers or employers or other purchasers of health care.

26       **SECTION 9. This 2007 Act takes effect on the 91st day after the date on which the reg-**  
27       **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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