

Senate Bill 31

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Children's 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 **as introduced**.

Creates Oregon Healthy Kids Program, which includes private health option to provide health care coverage to children. Imposes duties on Department of Human Services and Office of Private Health Partnerships to carry out program.

Creates grant program in Office of Private Health Partnerships to fund outreach, enrollment and retention activities related to Oregon Healthy Kids Program.

Establishes Private Health Option Program Account. Continuously appropriates moneys in account to Office of Private Health Partnerships for purposes of administering private health option.

A BILL FOR AN ACT

1
2 Relating to health care coverage for children; creating new provisions; amending ORS 414.025,
3 414.839, 735.701, 735.710 and 735.754; and appropriating money.

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

5 **SECTION 1. Sections 2, 3, 12 and 13 of this 2007 Act are added to and made a part of ORS**
6 **chapter 414.**

7 **SECTION 2. (1) The Oregon Healthy Kids Program is created to provide health care**
8 **coverage for Oregon's children. The program is composed of:**

9 (a) **Medical assistance provided to children under the state programs funded by Title XIX**
10 **of the Social Security Act and under the Children's Health Insurance Program funded by**
11 **Title XXI of the Social Security Act, both administered by the Department of Human Ser-**
12 **vices; and**

13 (b) **A private health option administered by the Office of Private Health Partnerships**
14 **under sections 6 and 7 of this 2007 Act.**

15 (2) **A child or a person authorized to act on behalf of a child may apply to the Department**
16 **of Human Services for a determination of the child's eligibility for the Oregon Healthy Kids**
17 **Program.**

18 (3) **When an application is received by the department under subsection (2) of this sec-**
19 **tion, the department shall determine whether the child is eligible for medical assistance. The**
20 **department shall enroll an eligible child in an appropriate medical assistance program re-**
21 **ferred to in subsection (1) of this section.**

22 (4) **If the department determines that a child for whom application has been made under**
23 **subsection (2) of this section is not eligible for medical assistance but is eligible for enroll-**
24 **ment in the private health option, the department shall transfer the application to the Office**
25 **of Private Health Partnerships to complete the enrollment process.**

26 (5) **The Department of Human Services and the Office of Private Health Partnerships**
27 **shall streamline and simplify the application process for the Oregon Healthy Kids Program,**

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 by means including the development and implementation of an online application process for
2 the program.

3 **SECTION 3. (1)(a) Except as provided in subsection (2) of this section, to be eligible for**
4 **the private health option under sections 6 and 7 of this 2007 Act or for the Children’s Health**
5 **Insurance Program funded by Title XXI of the Social Security Act, a child must be uninsured**
6 **for a minimum of 60 consecutive days immediately preceding enrollment.**

7 (b) As used in this subsection, “uninsured” means that a person is not enrolled in an
8 unsubsidized or privately funded health benefit plan.

9 (2) The Department of Human Services may adopt rules specifying exceptions to the re-
10 quirement in subsection (1) of this section.

11 (3) A child is eligible for enrollment in the Children’s Health Insurance Program only if
12 the household income of the child’s family is no more than 200 percent of the federal poverty
13 guidelines.

14 (4) The department shall adopt rules for annually renewing enrollment in the Oregon
15 Healthy Kids Program.

16 **SECTION 4.** ORS 414.025 is amended to read:

17 414.025. As used in this chapter, unless the context or a specially applicable statutory definition
18 requires otherwise:

19 (1) “Category of aid” means assistance provided by the Oregon Supplemental Income Program,
20 temporary assistance for needy families granted under ORS 418.035 to 418.125 or federal Supple-
21 mental Security Income payments.

22 (2) “Categorically needy” means, insofar as funds are available for the category, a person who
23 is a resident of this state and who:

24 (a) Is receiving a category of aid.

25 (b) Would be eligible for, but is not receiving a category of aid.

26 (c) Is in a medical facility and, if the person left such facility, would be eligible for a category
27 of aid.

28 (d) Is under the age of 21 years and would be a dependent child under the program for tempo-
29 rary assistance for needy families except for age and regular attendance in school or in a course
30 of professional or technical training.

31 (e)(A) Is a caretaker relative named in ORS 418.035 (2)(a)(C) who cares for a dependent child
32 who would be a dependent child under the program for temporary assistance for needy families ex-
33 cept for age and regular attendance in school or in a course of professional or technical training;
34 or

35 (B) Is the spouse of such caretaker relative and fulfills the requirements of ORS 418.035 (1).

36 (f) Is under the age of 21 years, is in a foster family home or licensed child-caring agency or
37 institution under a purchase of care agreement and is one for whom a public agency of this state
38 is assuming financial responsibility, in whole or in part.

39 (g) Is a spouse of an individual receiving a category of aid and who is living with the recipient
40 of a category of aid, whose needs and income are taken into account in determining the cash needs
41 of the recipient of a category of aid, and who is determined by the Department of Human Services
42 to be essential to the well-being of the recipient of a category of aid.

43 (h) Is a caretaker relative named in ORS 418.035 (2)(a)(C) who cares for a dependent child re-
44 ceiving temporary assistance for needy families or is the spouse of such caretaker relative and ful-
45 fills the requirements of ORS 418.035 (1).

1 (i) Is under the age of 21 years, is in a youth care center and is one for whom a public agency
 2 of this state is assuming financial responsibility, in whole or in part.

3 (j) Is under the age of 21 years and is in an intermediate care facility which includes institutions
 4 for the mentally retarded; or is under the age of 22 years and is in a psychiatric hospital.

5 (k) Is under the age of 21 years and is in an independent living situation with all or part of the
 6 maintenance cost paid by the Department of Human Services.

7 (L) Is a member of a family that received temporary assistance for needy families in at least
 8 three of the six months immediately preceding the month in which such family became ineligible for
 9 such assistance because of increased hours of or increased income from employment. As long as the
 10 member of the family is employed, such families will continue to be eligible for medical assistance
 11 for a period of at least six calendar months beginning with the month in which such family became
 12 ineligible for assistance because of increased hours of employment or increased earnings.

13 (m) Is an adopted person under 21 years of age for whom a public agency is assuming financial
 14 responsibility in whole or in part.

15 (n) Is an individual or is a member of a group who is required by federal law to be included in
 16 the state's medical assistance program in order for that program to qualify for federal funds.

17 (o) Is an individual or member of a group who, subject to the rules of the department and within
 18 available funds, may optionally be included in the state's medical assistance program under federal
 19 law and regulations concerning the availability of federal funds for the expenses of that individual
 20 or group.

21 (p) Is a pregnant woman who would be eligible for temporary assistance for needy families in-
 22 cluding such aid based on the unemployment of a parent, whether or not the woman is eligible for
 23 cash assistance.

24 (q) Would be eligible for temporary assistance for needy families pursuant to 42 U.S.C. 607 based
 25 upon the unemployment of a parent, whether or not the state provides cash assistance.

26 (r) Except as otherwise provided in this section and to the extent of available funds, is a preg-
 27 nant woman or child for whom federal financial participation is available under Title XIX of the
 28 federal Social Security Act.

29 (s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the
 30 federal Social Security Act or is not a full-time student in a post-secondary education program as
 31 defined by the Department of Human Services by rule, but whose family income is less than the
 32 federal poverty level and whose family investments and savings equal less than the investments and
 33 savings limit established by the department by rule.

34 **(3) "Health benefit plan" has the meaning given that term in ORS 735.720.**

35 [(3)] **(4)** "Income" has the meaning given that term in ORS 411.704.

36 [(4)] **(5)** "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable
 37 instruments as defined in ORS 73.0104 and such similar investments or savings as the Department
 38 of Human Services may establish by rule that are available to the applicant or recipient to con-
 39 tribute toward meeting the needs of the applicant or recipient.

40 [(5)] **(6)** "Medical assistance" means so much of the following medical and remedial care and
 41 services as may be prescribed by the Department of Human Services according to the standards
 42 established pursuant to ORS 414.065, including payments made for services provided under an in-
 43 surance or other contractual arrangement and money paid directly to the recipient for the purchase
 44 of medical care:

45 (a) Inpatient hospital services, other than services in an institution for mental diseases;

- 1 (b) Outpatient hospital services;
- 2 (c) Other laboratory and X-ray services;
- 3 (d) Skilled nursing facility services, other than services in an institution for mental diseases;
- 4 (e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled
- 5 nursing facility or elsewhere;
- 6 (f) Medical care, or any other type of remedial care recognized under state law, furnished by
- 7 licensed practitioners within the scope of their practice as defined by state law;
- 8 (g) Home health care services;
- 9 (h) Private duty nursing services;
- 10 (i) Clinic services;
- 11 (j) Dental services;
- 12 (k) Physical therapy and related services;
- 13 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
- 14 689;
- 15 (m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases
- 16 of the eye or by an optometrist, whichever the individual may select;
- 17 (n) Other diagnostic, screening, preventive and rehabilitative services;
- 18 (o) Inpatient hospital services, skilled nursing facility services and intermediate care facility
- 19 services for individuals 65 years of age or over in an institution for mental diseases;
- 20 (p) Any other medical care, and any other type of remedial care recognized under state law;
- 21 (q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their
- 22 physical or mental impairments, and such health care, treatment and other measures to correct or
- 23 ameliorate impairments and chronic conditions discovered thereby;
- 24 (r) Inpatient hospital services for individuals under 22 years of age in an institution for mental
- 25 diseases; and
- 26 (s) Hospice services.

27 [(6)] (7) "Medical assistance" includes any care or services for any individual who is a patient
 28 in a medical institution or any care or services for any individual who has attained 65 years of age
 29 or is under 22 years of age, and who is a patient in a private or public institution for mental dis-
 30 eases. "Medical assistance" includes "health services" as defined in ORS 414.705. "Medical assist-
 31 ance" does not include care or services for an inmate in a nonmedical public institution.

32 [(7)] (8) "Medically needy" means a person who is a resident of this state and who is considered
 33 eligible under federal law for medically needy assistance.

34 [(8)] (9) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes,
 35 "resources" does not include charitable contributions raised by a community to assist with medical
 36 expenses.

37 **SECTION 5. Sections 6 to 11 of this 2007 Act are added to and made a part of ORS**
 38 **chapter 735.**

39 **SECTION 6. (1) The Office of Private Health Partnerships shall administer a private**
 40 **health option to expand private health care coverage for Oregon's children.**

41 **(2) The office shall contract with carriers or prepaid managed care health services pro-**
 42 **viders described in ORS 414.725 to provide health benefit plans approved under section 7 of**
 43 **this 2007 Act. The office will manage the collection and payment of premiums for children**
 44 **participating in the plans.**

45 **(3) The office shall provide a subsidy for a health benefit plan provided pursuant to a**

1 contract entered into under this section for a child whose family's household income is more
 2 than 200 percent but no more than 350 percent of the federal poverty guidelines. The amount
 3 of the subsidy shall be determined in accordance with subsection (4) of this section and is
 4 payable to the carrier or prepaid managed care health services provider in the manner
 5 specified by the contract.

6 (4) The office shall adopt rules for determining the subsidies to be paid under this section
 7 based upon the following factors:

- 8 (a) Household income;
- 9 (b) Family size; and
- 10 (c) Other factors established by the office.

11 (5) The office shall adopt rules under which families with household incomes that are
 12 more than 350 percent of the federal poverty guidelines may purchase health benefit plans
 13 offered through the private health option.

14 (6) As used in this section:

- 15 (a) "Carrier" has the meaning given that term in ORS 735.700.
- 16 (b) "Child" means a person under 19 years of age.
- 17 (c) "Health benefit plan" has the meaning given that term in ORS 735.720.

18 **SECTION 7.** (1) The Office of Private Health Partnerships must approve health benefit
 19 plans offered through the private health option described in section 6 of this 2007 Act. To be
 20 approved, health benefit plans must cover mental health, vision and dental services and:

- 21 (a) The services covered for categorically needy persons under ORS 414.707 (1)(a); or
- 22 (b) A package of services comparable to the services covered for categorically needy
 23 persons under ORS 414.707 (1)(a).

24 (2) Approved health benefit plans may impose copayments or co-insurance amounts that
 25 are based upon a family's ability to pay as determined according to criteria adopted by the
 26 office by rule.

27 (3) Approved health benefit plans may not exclude coverage of pre-existing conditions.

28 (4) As used in this section, "health benefit plan" has the meaning given that term in ORS
 29 735.720.

30 **SECTION 8.** (1) The Office of Private Health Partnerships is responsible for marketing
 31 the Oregon Healthy Kids Program statewide, as well as coordinating, with the Department
 32 of Human Services, statewide enrollment training and outreach.

33 (2) In addition to the duties described in subsection (1) of this section, to maximize the
 34 enrollment and retention of eligible children in the Oregon Healthy Kids Program, the office
 35 shall develop and administer a grant program to provide funding to organizations and local
 36 groups for outreach and enrollment activities. The department and the office shall collab-
 37 orate in developing and administering the grant program.

38 (3) The criteria for awarding grants under subsection (2) of this section shall include, but
 39 are not limited to, the extent to which a grantee offers:

- 40 (a) Information and assistance to a diverse geographic area or a culturally diverse com-
 41 munity in the state, including communities that need the information and assistance pro-
 42 vided in alternative formats and in languages other than English;
- 43 (b) Assistance with the application process; and
- 44 (c) Assistance to individuals and families in enrolling and maintaining enrollment in the
 45 Oregon Healthy Kids Program.

1 **SECTION 9.** Notwithstanding eligibility criteria and subsidy amounts determined pursu-
2 ant to section 6 of this 2007 Act, subsidies under the private health option shall be provided
3 to eligible children to the extent the Legislative Assembly appropriates funds for that pur-
4 pose or establishes expenditure limitations to provide such subsidies.

5 **SECTION 10.** There is established in the State Treasury, separate and distinct from the
6 General Fund, the Private Health Option Program Account, which shall consist of moneys
7 appropriated to the account by the Legislative Assembly and all moneys transferred as re-
8 imbursements to the account by the Department of Human Services under section 12 of this
9 2007 Act. All moneys in the Private Health Option Program Account are continuously ap-
10 propriated to the Office of Private Health Partnerships to carry out the provisions of
11 sections 6, 7 and 8 of this 2007 Act.

12 **SECTION 11.** (1) Except as otherwise provided in this section and ORS 735.710, the Office
13 of Private Health Partnerships and the Department of Human Services may not disclose in-
14 formation provided as part of an application for enrollment in the Oregon Healthy Kids
15 Program.

16 (2) The office and the department may exchange applicant information with other state
17 and federal agencies for the purposes of determining eligibility for and administering the
18 Oregon Healthy Kids Program, identifying economic trends relevant to administration of the
19 program and providing the report required by section 13 of this 2007 Act.

20 (3) In accordance with applicable state and federal law, the office or the department may
21 request that applicants provide their Social Security numbers and may use those numbers
22 in the administration of the program.

23 **SECTION 12.** (1) The Department of Human Services shall apply to the Centers for
24 Medicare and Medicaid Services for the waivers necessary to implement sections 2, 3, 6, 7
25 and 8 of this 2007 Act and to obtain federal financial participation for health care coverage
26 provided to children through the Oregon Healthy Kids Program.

27 (2) The department shall adopt rules implementing sections 2 and 3 of this 2007 Act as
28 soon as practicable after receipt of the necessary waivers. The Office of Private Health
29 Partnerships shall adopt rules implementing sections 6, 7 and 8 of this 2007 Act as soon as
30 practicable after receipt of the necessary waivers.

31 (3) The office and the department shall work cooperatively to obtain federal financial
32 participation under subsection (1) of this section.

33 (4) The office and the department shall develop a system for reimbursement by the de-
34 partment to the office for costs associated with administering the private health option.

35 **SECTION 13.** The Office for Oregon Health Policy and Research shall analyze and evalu-
36 ate the implementation of the Oregon Healthy Kids Program and report its findings to the
37 Legislative Assembly every two years. The report shall include at least the following infor-
38 mation for the preceding two-year period:

39 (1) An estimate of the number of children who are eligible for but not enrolled in the
40 program;

41 (2) The number of children enrolled in the program;

42 (3) The number of children disenrolled from the program and the reasons for disenroll-
43 ment;

44 (4) A description of any identified barriers to enrolling or maintaining enrollment of
45 children in the program and a description of the plans developed by the office and the De-

1 **partment of Human Services to overcome the barriers; and**

2 **(5) An estimate of the number of families who have voluntarily discontinued employer-**
 3 **sponsored dependent health coverage and enrolled their children in the program.**

4 **SECTION 14.** ORS 414.839 is amended to read:

5 414.839. (1) Subject to funds available, the Department of Human Services may provide public
 6 subsidies for the purchase of health insurance coverage [*provided by public programs or private in-*
 7 *surance, including but not limited to*] **in** the Family Health Insurance Assistance Program, for cur-
 8 rently uninsured individuals [*based on*] **whose** incomes [*up to*] **are not more than** 200 percent of
 9 the federal poverty level. The objective is to create a transition from dependence on public programs
 10 to privately financed health insurance.

11 (2) Public subsidies shall apply only to health benefit plans that meet or exceed the basic
 12 benchmark health benefit plan or plans established under ORS 735.733.

13 (3) Cost-sharing shall be permitted and structured in such a manner to encourage appropriate
 14 use of preventive care and avoidance of unnecessary services.

15 (4) Cost-sharing shall be based on an individual's ability to pay and may not exceed the cost of
 16 purchasing a plan.

17 (5) The state may pay a portion of the cost of the subsidy, based on the individual's income and
 18 other resources.

19 **SECTION 15.** ORS 735.701 is amended to read:

20 735.701. (1) The Office of Private Health Partnerships is established.

21 (2) The office shall carry out the duties described under ORS 414.831, 735.700 to 735.714 and
 22 735.720 to 735.740 **and sections 2, 6, 7 and 8 of this 2007 Act.**

23 **SECTION 16.** ORS 735.710, as amended by section 8, chapter 742, Oregon Laws 2003, section
 24 4, chapter 238, Oregon Laws 2005, section 4, chapter 262, Oregon Laws 2005, section 4, chapter 727,
 25 Oregon Laws 2005, and section 20, chapter 744, Oregon Laws 2005, is amended to read:

26 735.710. (1) In carrying out its duties under ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
 27 **sections 2, 6, 7 and 8 of this 2007 Act,** the Office of Private Health Partnerships shall:

28 (a) Enter into contracts for administration of ORS 735.700 to 735.714 and 735.720 to 735.740, in-
 29 cluding collection of premiums and paying carriers.

30 (b) Retain consultants and employ staff.

31 (c) Enter into contracts with carriers or health care providers for health benefit plans, including
 32 contracts where final payment may be reduced if usage is below a level fixed in the contract.

33 (d) Set premium rates for eligible employees and small employers.

34 (e) Perform other duties to provide low-cost health benefit plans of types likely to be purchased
 35 by small employers.

36 (f) Establish contributions to be paid by small employers toward the premiums incurred on be-
 37 half of covered eligible employees.

38 (g) Establish procedures by rule for the publication or release of aggregate data relating to:

39 (A) Applicants for enrollment and persons enrolled in the Family Health Insurance Assistance
 40 Program;

41 (B) Health benefit plans for small employers offered by the office; and

42 (C) Other programs operated by the office.

43 (2) Notwithstanding any other health benefit plan contracted for and offered by the office, the
 44 office shall contract for a health benefit plan or plans best designed to meet the needs and provide
 45 for the welfare of eligible employees and small employers.

1 (3) The office may approve more than one carrier for each type of plan contracted for and of-
 2 fered, but the number of carriers shall be held to a number consistent with adequate service to eli-
 3 gible employees and family members.

4 (4) Where appropriate for a contracted and offered health benefit plan, the office shall provide
 5 options under which an eligible employee may arrange coverage for family members of the employee.

6 (5) In developing any health benefit plan, the office may provide an option of additional coverage
 7 for eligible employees and family members at an additional cost or premium.

8 (6) Transfer of enrollment from one health benefit plan to another shall be open to all eligible
 9 employees and family members under rules adopted by the office.

10 (7) If the office requests less health care service or benefit than is otherwise required by state
 11 law, a carrier is not required to offer such service or benefit.

12 (8) Health benefit plans for small employers contracted for and offered by the office must pro-
 13 vide a sufficient level of benefits to be eligible for a subsidy under ORS 735.724.

14 (9) The office may employ whatever means are reasonably necessary to carry out the purposes
 15 of ORS 735.700 to 735.714 and 735.720 to 735.740 **and sections 2, 6, 7 and 8 of this 2007 Act**. Such
 16 authority includes but is not limited to authority to seek clarification, amendment, modification,
 17 suspension or termination of any agreement or contract that in the office's judgment requires such
 18 action.

19 **SECTION 17.** ORS 735.754 is amended to read:

20 735.754. (1) In order to increase public subsidies for the purchase of health insurance coverage
 21 provided by public programs or private insurance described by ORS 414.839 **and sections 6, 7 and**
 22 **8 of this 2007 Act**, the Office of Private Health Partnerships, the Oregon Medical Insurance Pool
 23 Board and the Department of Human Services shall work cooperatively to obtain federal matching
 24 dollars. The office, the Oregon Medical Insurance Pool Board and the department shall develop a
 25 system for payment or reimbursement of other costs and subsidies provided to subsidized members.

26 (2) For each subsidized member, the Oregon Medical Insurance Pool Board shall determine:

- 27 (a) The full cost of administering the benefits plan of the subsidized member; and
- 28 (b) The amount of other costs.

29 (3) The Oregon Medical Insurance Pool Board shall bill the Family Health Insurance Assistance
 30 Program for the total amount of the premium received by the Oregon Medical Insurance Pool Board
 31 and for the amount of other costs. The program shall forward the bill to the department.

32 (4) The department shall pay the program an amount equal to the portion of the premium that
 33 is a subsidy and for other costs. The program shall forward the payment to the Oregon Medical
 34 Insurance Pool Board.