

Senate Bill 360

Sponsored by Senator MORRISETTE (Pre-session filed.)

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**.

Establishes Office of Health Care Ombudsman to receive and investigate complaints about provision of care or services by fully capitated health plans and prepaid managed care health services organizations. Establishes Health Care Ombudsman Advisory Council.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to ombudsman services for persons receiving medical assistance; and declaring an emer-
3 gency.

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

5 **SECTION 1. Sections 2, 3 and 4 of this 2007 Act are added to and made a part of ORS**
6 **chapter 441.**

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

8 (1) "Fully capitated health plan" has the meaning given that term in ORS 414.736.

9 (2) "Prepaid managed care health services organization" has the meaning given that term
10 in ORS 414.736.

11 **SECTION 3. (1) The Office of the Health Care Ombudsman is established. The office is**
12 **under the supervision and control of the Health Care Ombudsman, who is responsible for the**
13 **performance of the duties, functions and powers of the office. The Governor shall appoint the**
14 **Health Care Ombudsman.**

15 (2) The Office of the Health Care Ombudsman shall maintain a state toll-free telephone
16 line to accept and record:

17 (a) Complaints regarding the actions and conduct of fully capitated health plans and
18 prepaid managed care health services organizations.

19 (b) Complaints concerning access to, quality of or limitations on the care or services
20 being provided by a fully capitated health plan or a prepaid managed care health services
21 organization.

22 (3) The Health Care Ombudsman shall:

23 (a) Investigate and resolve complaints described in subsection (2) of this section that are
24 made by or for persons receiving state medical assistance. The ombudsman shall determine
25 whether a complaint is substantiated and shall issue findings and recommendations regard-
26 ing further action.

27 (b) Serve as an advocate for a person described in paragraph (a) of this subsection
28 whenever the person or a physician or other personnel serving the person are reasonably
29 concerned about access to, quality of or limitations on the care or services being provided
30 to the person by a fully capitated health plan or a prepaid managed care health services or-

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 **ganization.**

2 (c) **Ensure that persons who are receiving state medical assistance are informed of the**
 3 **availability of ombudsman services.**

4 (4) **The Office of the Health Care Ombudsman shall establish procedures to maintain the**
 5 **confidentiality of the records and files of a person receiving ombudsman services. The pro-**
 6 **cedures must meet the following requirements:**

7 (a) **The Health Care Ombudsman may not disclose, except to state agencies, the identity**
 8 **of the person unless the complainant or the person, or the legal representative of the person,**
 9 **consents in writing to the disclosure and specifies to whom the disclosure may be made.**

10 (b) **The identity of any complainant or person on whose behalf a complaint is made, or**
 11 **person providing information on behalf of the person or complainant, shall be confidential.**

12 (5) **The Health Care Ombudsman shall report quarterly to the Health Care Ombudsman**
 13 **Advisory Council. The report shall be available to the public and shall include, but need not**
 14 **be limited to:**

15 (a) **A summary of each complaint recorded by the office and the fully capitated health**
 16 **plan or prepaid managed care health services organization against which the complaints were**
 17 **made;**

18 (b) **A summary of the services provided by the office with respect to each complaint;**

19 (c) **Information on the resolution of complaints, including the number of substantiated**
 20 **complaints and patterns and trends in the nature of the complaints; and**

21 (d) **Recommendations for modifications to the contracts between the Department of Hu-**
 22 **man Services and fully capitated health plans or prepaid managed care health services or-**
 23 **ganizations to provide care or services to recipients of state medical assistance.**

24 (6) **A person who files a complaint under this section or who participates in any investi-**
 25 **gation under this section may not be, because of that action:**

26 (a) **Subject to any penalties, sanctions or restrictions imposed by the department;**

27 (b) **Subject to any penalties, sanctions or restrictions connected with the person's em-**
 28 **ployment; or**

29 (c) **Denied any right, privilege or benefit by the department, a fully capitated health plan**
 30 **or a prepaid managed care health services organization on account of the complaint.**

31 (7) **The Health Care Ombudsman may hire staff to carry out the duties, functions and**
 32 **powers of the office.**

33 **SECTION 4. (1) The Health Care Ombudsman Advisory Council is established consisting**
 34 **of 14 members appointed as follows:**

35 (a) **The President of the Senate shall appoint one member from among members of the**
 36 **Senate.**

37 (b) **The Speaker of the House of Representatives shall appoint one member from among**
 38 **members of the House of Representatives.**

39 (c) **The Governor shall appoint the following members:**

40 (A) **Seven persons who are enrolled in fully capitated health plans or prepaid managed**
 41 **care health services organizations;**

42 (B) **One person representing the Governor's Commission on Senior Services;**

43 (C) **One person representing the Oregon Disabilities Commission;**

44 (D) **One person representing area agencies on aging;**

45 (E) **One person from the Department of Human Services; and**

1 (F) One person from the office of the Long Term Care Ombudsman.

2 (2) The purpose of the advisory council is to advise the Health Care Ombudsman on
3 carrying out the duties and functions of the Office of the Health Care Ombudsman.

4 (3) A majority of the members of the advisory council constitutes a quorum for the
5 transaction of business.

6 (4) Official action by the advisory council requires the approval of a majority of the
7 members of the advisory council.

8 (5) The advisory council shall elect one of its members to serve as chairperson.

9 (6) The term of office of a member of the advisory council is three years beginning on
10 July 1 of the year of appointment. However, a member shall continue to serve until a suc-
11 cessor has been appointed and qualifies.

12 (7) If there is a vacancy for any cause, the appointing authority shall make an appoint-
13 ment to become immediately effective.

14 (8) The advisory council shall meet at times and places specified by the call of the
15 chairperson or of a majority of the members of the advisory council.

16 (9) The advisory council may adopt rules necessary for the operation of the advisory
17 council.

18 (10) Members of the advisory council are entitled to compensation or reimbursement for
19 expenses as provided in ORS 292.495 from funds available to the Office of the Health Care
20 Ombudsman.

21 (11) All agencies of state government, as defined in ORS 174.111, and fully capitated
22 health plans and prepaid managed care health services organizations are directed to assist
23 the advisory council in the performance of its duties and, to the extent permitted by laws
24 relating to confidentiality, to furnish such information and advice as the members of the
25 advisory council consider necessary to perform their duties.

26 (12) No later than July 1 of each year, the advisory council shall report to the Governor
27 and the Department of Human Services on its findings and recommendations regarding the
28 fully capitated health plans and prepaid managed care health services organizations with
29 which the department is contracting for care and services.

30 **SECTION 5.** Notwithstanding the term of office specified in section 4 of this 2007 Act, of
31 the members first appointed to the Health Care Ombudsman Advisory Council:

32 (1) Three shall serve for a term ending June 30, 2009.

33 (2) Three shall serve for a term ending June 30, 2010.

34 (3) Four shall serve for a term ending June 30, 2011.

35 (4) Four shall serve for a term ending June 30, 2012.

36 **SECTION 6.** This 2007 Act being necessary for the immediate preservation of the public
37 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
38 July 1, 2007.

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