House Bill 2076

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of House Interim Committee on Revenue)

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 that moneys collected by department from assessment be deposited to Oregon Health Plan Fund.

A BILL FOR AN ACT

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

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

SECTION 1. Sections 2 to 10 of this 2009 Act are added to and made a part of ORS chapter 320.

SECTION 2. As used in sections 2 to 10 of this 2009 Act:

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

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

(3) "Net revenue":

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

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

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

(a) Inpatient hospital services;

(b) Outpatient hospital services;

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

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

(e) Physician services;

(f) Home health care 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.

(g) Services of managed care organizations;

(h) Outpatient prescription drugs;

(i) Ambulatory surgical center services, as described for purposes of the Medicare program in section 1832(a)(2)(F)(i) of the Social Security Act, including facility services only and not surgical procedures;

(j) Dental services;

(k) Podiatric services;

(L) Chiropractic services;

(m) Optometric or optician services;

(n) Psychological services;

(o) Therapist services, including physical therapy, speech therapy, occupational therapy, respiratory therapy, audiological services and rehabilitative services;

(p) Nursing services, including services of nurses, nurse midwives, nurse practitioners and private duty nurses;

(q) Laboratory and X-ray services, including services provided in a licensed, free-standing laboratory or X-ray facility but not including laboratory or X-ray services provided in a physician's office, hospital inpatient department or hospital outpatient department; and

(r) Emergency ambulance services.

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

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

SECTION 4. Notwithstanding section 3 of this 2009 Act, the Director of the Department of Revenue may reduce the rate of assessment imposed under section 3 of this 2009 Act to the maximum rate allowed under federal law if the reduction is required to comply with federal law.

SECTION 5. (1) A provider that fails to file a report or pay an assessment under section 3 of this 2009 Act by the date the report or payment is due shall be subject to a penalty of $500 per day of delinquency. The total amount of penalties imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalties are being imposed.

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

SECTION 6. (1) A provider that has paid an amount that is not required under sections 2 to 10 of this 2009 Act may file a claim for refund with the Department of Revenue.

(2) Any provider that is aggrieved by an action of the Department of Revenue or by an action of the Director of the Department of Revenue taken under sections 2 to 10 of this 2009 Act shall be entitled to notice and an opportunity for a contested case hearing under ORS chapter 183.

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

(2) The Department of Revenue may audit the records of any provider in this state to determine compliance with sections 2 to 10 of this 2009 Act. The department may audit records at any time for a period of five years following the date an assessment is due to be reported and paid under section 3 of this 2009 Act.

SECTION 8. Amounts collected by the Department of Revenue from the assessment under section 3 of this 2009 Act shall be deposited in the Oregon Health Plan Fund established under ORS 414.109.

SECTION 9. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto, shall apply to sections 2 to 10 of this 2009 Act the same as if the tax were a tax imposed upon or measured by net income. All such provisions apply to the subscriber liable for the tax and to the provider required to collect the tax. As to any amount collected and required to be remitted to the Department of Revenue, the tax shall be considered a tax upon the provider required to collect the tax and that provider shall be considered a taxpayer.

SECTION 10. (1) Section 3 of this 2009 Act becomes operative on the day after the date of receipt of all necessary federal approvals by the Centers for Medicare and Medicaid Services.

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

SECTION 11. The assessment imposed under sections 2 to 10 of this 2009 Act applies to health care provider net revenue incurred in years beginning on or after January 1, 2010.