

House Bill 2445

Sponsored by Representative GELSER

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**.

Expands definition of categorically needy persons eligible for medical assistance to include individuals with disabilities under 19 years of age. Authorizes Department of Human Services to impose premiums or cost-sharing for medical assistance provided to specified individuals. Imposes limits on premiums and cost-sharing. Creates Medicaid buy-in program for individuals with disabilities whose family income exceeds 300 percent of federal poverty guidelines.

Takes effect January 1, 2011.

A BILL FOR AN ACT

1
2 Relating to medical assistance for individuals with disabilities under 19 years of age; creating new
3 provisions; amending ORS 414.025; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS**
6 **chapter 414.**

7 **SECTION 2. (1) The Department of Human Services shall adopt by rule standards for**
8 **premiums, copayments or deductibles, consistent with federal law, for individuals who are**
9 **categorically needy as described in ORS 414.025 (2)(t) and whose family income does not ex-**
10 **ceed 300 percent of the federal poverty guidelines, subject to the following:**

11 (a) **The department may not require copayments or deductibles if the family income is**
12 **at or below 250 percent of the federal poverty guidelines.**

13 (b) **The combined copayments and deductibles may not exceed five percent of the cost**
14 **of the treatment or service and may not be required for:**

15 (A) **Preventive services such as well baby and well child care and immunizations.**

16 (B) **Services furnished to a terminally ill individual who is receiving hospice care.**

17 (C) **Services to an individual who is described in ORS 414.025 (2)(a), (L), (n) or (o).**

18 (D) **Pregnancy-related services.**

19 (E) **Services furnished to an individual who is an inpatient in a medical institution and**
20 **is required to pay for costs of medical care all of the individual's income except for a minimal**
21 **amount required for personal needs.**

22 (F) **Emergency services.**

23 (G) **Family planning services and supplies.**

24 (H) **Services to an individual who is receiving medical assistance under ORS 414.534.**

25 (c) **Premiums shall be based upon the capitation rate paid to prepaid managed care health**
26 **services organizations under contracts described in ORS 414.725 for coverage of categorically**
27 **needy persons under the age of 19 years. A premium:**

28 (A) **May not be imposed if the family income is at or below 250 percent of the federal**
29 **poverty guidelines; and**

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 (B) If the family income is above 250 percent and at or below 300 percent of the federal
2 poverty guidelines, must be on a sliding scale based upon:

- 3 (i) Family income;
- 4 (ii) Family size;
- 5 (iii) Number of persons with a disability in a household; and
- 6 (iv) Other factors established by the department by rule.

7 (d) The combined premiums, copayments and deductibles may not exceed five percent of
8 the family income, as applied on a quarterly or monthly basis.

9 (2) The department shall adopt by rule methods for determining family income under this
10 section and section 3 of this 2009 Act, including the use of income disregards.

11 (3) If an employer of a parent of an individual described in ORS 414.025 (2)(t) contributes
12 at least 50 percent of the total cost of annual premiums for family coverage under a health
13 benefit plan as defined in ORS 743.730, the parent must apply for, enroll in and pay premiums
14 for such coverage as a condition of the individual being or remaining eligible for medical
15 assistance under this section.

16 (4) The amount of the premiums paid under subsection (3) of this section shall be de-
17 ducted from premiums due the department under subsection (1)(c) of this section and section
18 3 of this 2009 Act.

19 (5) The department may not impose a prior period of uninsurance on an individual who
20 is categorically needy under ORS 414.025 (2)(t) and otherwise meets the requirements of this
21 section.

22 (6) The Office for Oregon Health Policy and Research shall be responsible for analyzing
23 and reporting on the implementation and operation of this section and section 3 of this 2009
24 Act, including an analysis of the impact of premiums, deductibles and copayments on utili-
25 zation and access to health care by individuals under the age of 19.

26 (7) Except as provided in subsection (3) of this section, this section does not require the
27 department to impose premiums, copayments or deductibles upon categorically needy per-
28 sons whose family income is at or below 300 percent of the federal poverty guidelines.

29 **SECTION 3.** (1)(a) Subject to available funds, persons who are categorically needy as de-
30 scribed in ORS 414.025 (2)(t) with family income exceeding 300 percent of the federal poverty
31 guidelines may qualify for medical assistance under this chapter upon payment of a premium
32 according to standards prescribed by the Department of Human Services by rule.

33 (b) A premium under this subsection:

34 (A) Must be based upon the following factors:

- 35 (i) Family income;
- 36 (ii) Family size;
- 37 (iii) Number of persons with disabilities in a household; and
- 38 (iv) Other factors established by the department by rule; and

39 (B) May not exceed the capitation rate paid to prepaid managed care health services or-
40 ganizations under contracts described in ORS 414.725 for coverage of categorically needy
41 persons under the age of 19 years.

42 (2) The department may adopt rules prescribing copayments and deductibles required for
43 health services provided to persons who qualify for medical assistance under this section.

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

45 414.025. As used in this chapter, unless the context or a specially applicable statutory definition

1 requires otherwise:

2 (1) "Category of aid" means assistance provided by the Oregon Supplemental Income Program,
 3 aid granted under ORS 412.001 to 412.069 and 418.647 or federal Supplemental Security Income
 4 payments.

5 (2) "Categorically needy" means, insofar as funds are available for the category, a person who
 6 is a resident of this state and who:

7 (a) Is receiving a category of aid.

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

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

11 (d) Is under the age of 21 years and would be a dependent child as defined in ORS 412.001 except
 12 for age and regular attendance in school or in a course of professional or technical training.

13 (e)(A) Is a caretaker relative, as defined in ORS 412.001, who cares for a child who would be a
 14 dependent child except for age and regular attendance in school or in a course of professional or
 15 technical training; or

16 (B) Is the spouse of the caretaker relative.

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

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

24 (h) Is a caretaker relative as defined in ORS 412.001 who cares for a dependent child receiving
 25 aid granted under ORS 412.001 to 412.069 and 418.647 or is the spouse of the caretaker relative.

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

28 (j) Is under the age of 21 years and is in an intermediate care facility which includes institutions
 29 for persons with mental retardation; or is under the age of 22 years and is in a psychiatric hospital.

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

32 (L) Is a member of a family that received aid in the preceding month under ORS 412.006 or
 33 412.014 and became ineligible for aid due to increased hours of or increased income from employ-
 34 ment. As long as the member of the family is employed, such families will continue to be eligible for
 35 medical assistance for a period of at least six calendar months beginning with the month in which
 36 such family became ineligible for assistance due to increased hours of employment or increased
 37 earnings.

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

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

42 (o) Is an individual or member of a group who, subject to the rules of the department [*and within*
 43 *available funds*], may optionally be included in the state's medical assistance program under federal
 44 law and regulations concerning the availability of federal funds for the expenses of that individual
 45 or group.

1 (p) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and
2 418.647, whether or not the woman is eligible for cash assistance.

3 (q) Except as otherwise provided in this section [*and to the extent of available funds*], is a preg-
4 nant woman or child for whom federal financial participation is available under Title XIX of the
5 federal Social Security Act.

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

11 (s) Would be eligible for a category of aid but for the receipt of qualified long term care insur-
12 ance benefits under a policy or certificate issued on or after January 1, 2008. As used in this para-
13 graph, “qualified long term care insurance” means a policy or certificate of insurance as defined in
14 ORS 743.652 (6).

15 **(t) Is under the age of 19 years and would be considered disabled for federal Supplemental**
16 **Security Income purposes but whose family income or resources exceed the limits for Sup-**
17 **plemental Security Income payments.**

18 (3) “Income” has the meaning given that term in ORS 411.704.

19 (4) “Investments and savings” means cash, securities as defined in ORS 59.015, negotiable in-
20 struments as defined in ORS 73.0104 and such similar investments or savings as the Department of
21 Human Services may establish by rule that are available to the applicant or recipient to contribute
22 toward meeting the needs of the applicant or recipient.

23 (5) “Medical assistance” means so much of the following medical and remedial care and services
24 as may be prescribed by the Department of Human Services according to the standards established
25 pursuant to ORS 414.065, including payments made for services provided under an insurance or
26 other contractual arrangement and money paid directly to the recipient for the purchase of medical
27 care:

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

29 (b) Outpatient hospital services;

30 (c) Other laboratory and X-ray services;

31 (d) Skilled nursing facility services, other than services in an institution for mental diseases;

32 (e) Physicians’ services, whether furnished in the office, the patient’s home, a hospital, a skilled
33 nursing facility or elsewhere;

34 (f) Medical care, or any other type of remedial care recognized under state law, furnished by
35 licensed practitioners within the scope of their practice as defined by state law;

36 (g) Home health care services;

37 (h) Private duty nursing services;

38 (i) Clinic services;

39 (j) Dental services;

40 (k) Physical therapy and related services;

41 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
42 689;

43 (m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases
44 of the eye or by an optometrist, whichever the individual may select;

45 (n) Other diagnostic, screening, preventive and rehabilitative services;

1 (o) Inpatient hospital services, skilled nursing facility services and intermediate care facility
2 services for individuals 65 years of age or over in an institution for mental diseases;

3 (p) Any other medical care, and any other type of remedial care recognized under state law;

4 (q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their
5 physical or mental impairments, and such health care, treatment and other measures to correct or
6 ameliorate impairments and chronic conditions discovered thereby;

7 (r) Inpatient hospital services for individuals under 22 years of age in an institution for mental
8 diseases; and

9 (s) Hospice services.

10 (6) "Medical assistance" includes any care or services for any individual who is a patient in a
11 medical institution or any care or services for any individual who has attained 65 years of age or
12 is under 22 years of age, and who is a patient in a private or public institution for mental diseases.
13 "Medical assistance" includes "health services" as defined in ORS 414.705. "Medical assistance"
14 does not include care or services for an inmate in a nonmedical public institution.

15 (7) "Medically needy" means a person who is a resident of this state and who is considered el-
16 igible under federal law for medically needy assistance.

17 (8) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes, "re-
18 sources" does not include charitable contributions raised by a community to assist with medical
19 expenses.

20 **SECTION 5. This 2009 Act takes effect on January 1, 2011.**