

B-Engrossed
Senate Bill 862

Ordered by the House May 28
Including Senate Amendments dated April 20 and House Amendments
dated May 28

Sponsored by Senator TELFER; Senators ATKINSON, BATES, FERRIOLI, GEORGE, GIROD, KRUSE, MONNES
ANDERSON, MORRISSETTE, MORSE, VERGER, WHITSETT, Representatives GARRETT, GREENLICK,
KENNEMER, MAURER, STIEGLER, THOMPSON, WHISNANT

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.

Requires Administrator of Office for Oregon Health Policy and Research to adopt rules for approval of community-based health care initiative and of community-based health care improvement program operated by initiative. **Limits number of initiatives that office may approve until June 30, 2013.** Exempts approved initiative and program from Insurance Code.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to reimbursement of health care costs; creating new provisions; amending ORS 731.036; and
3 declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 4 of this 2009 Act:**

6 (1) **"Community" means the area of geographically contiguous political subdivisions as**
7 **determined by the Office for Oregon Health Policy and Research in collaboration with the**
8 **board of directors of a community-based health care initiative.**

9 (2) **"Qualified employee" means an individual who:**

10 (a) **Is employed by a qualified employer;**

11 (b) **Resides or works within a community;**

12 (c) **Does not have health insurance; and**

13 (d) **Does not qualify for publicly funded health care.**

14 (3) **"Qualified employer" means an employer that:**

15 (a) **Employs 1 to 50 employees;**

16 (b) **Pays a median wage to its employees that is equal to or below an amount that is 300**
17 **percent of the federal poverty guidelines;**

18 (c) **For 12 months prior to enrollment in a community-based health care improvement**
19 **program, or for the duration of the employer's operation if the employer has been in opera-**
20 **tion less than 12 months, has not provided to employees employer-based health insurance**
21 **coverage for which the employer contributes at least 50 percent of the cost of premiums;**

22 (d) **Offers community-based health care services through a community-based health care**
23 **improvement program to all qualified employees and their dependents regardless of health**
24 **status;**

25 (e) **Agrees to participate in a community-based health care improvement program for at**

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 least 12 months; and

2 (f) Agrees to provide information that is deemed necessary by the community-based
3 health care initiative to determine eligibility, assess dues and pay claims.

4 **SECTION 2.** (1) The Administrator of the Office for Oregon Health Policy and Research
5 shall adopt rules for the approval of one community-based health care initiative per com-
6 munity that meets the requirements under subsection (2) of this section and of a
7 community-based health care improvement program that meets the requirements under
8 subsection (3) of this section. The office may not approve community-based health care ini-
9 tiatives for more than three communities during the period beginning with the effective date
10 of this 2009 Act and ending June 30, 2013.

11 (2) An approved community-based health care initiative shall:

12 (a) Be a nonprofit corporation governed by a board of directors that includes, but is not
13 limited to, representatives of participating health care providers and qualified employers. At
14 least 80 percent of the board members must be residents of the community.

15 (b) Contract with health care providers that offer health care services in the community
16 to provide services to enrollees in the program.

17 (c) Recruit qualified employers to enroll in the program.

18 (d) Establish an operational structure for:

19 (A) Assisting employees of qualified employers or their dependents to enroll in state
20 medical assistance programs if appropriate;

21 (B) Enrolling qualified employees and their dependents in the community-based health
22 care improvement program;

23 (C) Billing and collecting dues from qualified employers and qualified employees; and

24 (D) Reimbursing participating health care providers for services to enrollees.

25 (e) Establish a set of health care services that are covered in the community-based
26 health care improvement program, cost-sharing requirements and incentives to encourage
27 the utilization of primary care, wellness and chronic disease management services.

28 (f) Maintain a liquid reserve account in an amount sufficient to pay all claims that have
29 been incurred but not yet charged for a period of at least two months.

30 (g) Provide to each qualified employee enrolled in the program a clear and concise writ-
31 ten statement that describes the community-based health care improvement program and
32 that includes:

33 (A) The health care services that are covered;

34 (B) Any exclusions or limitations on coverage of health care services, including any re-
35 quirements for prior authorization;

36 (C) Copayments, coinsurance, deductibles and any other cost-sharing requirements;

37 (D) A list of participating health care providers;

38 (E) The complaint process described in subsection (3)(b) of this section; and

39 (F) The conditions under which the program or coverage through the program may be
40 terminated.

41 (h) Comply with the requirements of sections 3 and 4 of this 2009 Act.

42 (3) An approved community-based health care improvement program shall:

43 (a) Reimburse the cost of the set of health care services established by the initiative and
44 provided in the community to qualified employers, qualified employees and their dependents.

45 (b) Include an enrollee complaint process that ensures the resolution of complaints

1 within 45 days.

2 **SECTION 3. (1) A community-based health care initiative may limit enrollment in a**
3 **community-based health care improvement program. If enrollment is limited, the initiative**
4 **must establish a waiting list.**

5 **(2) Except as provided in this section, an initiative may not restrict or deny enrollment**
6 **in the program except for nonpayment of dues, fraud or misrepresentation.**

7 **(3) As a condition for enrolling a qualified employer and maintaining the employer's en-**
8 **rollment in the program, an initiative may require a minimum percentage of participation**
9 **by qualified employees of an employer.**

10 **SECTION 4. A community-based health care initiative approved by the Administrator of**
11 **the Office for Oregon Health Policy and Research must report to the Legislative Assembly**
12 **no later than October 1 of each year. The report must contain at a minimum the following**
13 **information:**

14 **(1) The financial status of the community-based health care improvement program, in-**
15 **cluding the dues, the costs per enrollee per month, the total amount of claims paid, the total**
16 **amount of dues collected and the administrative expenses;**

17 **(2) A description of the set of health care services covered by the program and an anal-**
18 **ysis of service utilization;**

19 **(3) The number of qualified employers, qualified employees and dependents enrolled;**

20 **(4) The number and scope of practice of participating health care providers;**

21 **(5) Recommendations for improving the program and establishing programs in other ge-**
22 **ographical regions of the state; and**

23 **(6) Any other information requested by the administrator or the Legislative Assembly.**

24 **SECTION 5. ORS 731.036 is amended to read:**

25 731.036. The Insurance Code does not apply to any of the following to the extent of the subject
26 matter of the exemption:

27 (1) A bail bondsman, other than a corporate surety and its agents.

28 (2) A fraternal benefit society that has maintained lodges in this state and other states for 50
29 years prior to January 1, 1961, and for which a certificate of authority was not required on that
30 date.

31 (3) A religious organization providing insurance benefits only to its employees, which organiza-
32 tion is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue
33 Code on September 13, 1975.

34 (4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-
35 insurance program for tort liability in accordance with ORS 30.282.

36 (5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-
37 insurance program for property damage in accordance with ORS 30.282.

38 (6) Cities, counties, school districts, community college districts, community college service dis-
39 tricts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure
40 for health insurance coverage, excluding disability insurance, their employees or retired employees,
41 or their dependents, or students engaged in school activities, or combination of employees and de-
42 pendents, with or without employee or student contributions, if all of the following conditions are
43 met:

44 (a) The individual or jointly self-insured program meets the following minimum requirements:

45 (A) In the case of a school district, community college district or community college service

1 district, the number of covered employees and dependents and retired employees and dependents
2 aggregates at least 500 individuals;

3 (B) In the case of an individual public body program other than a school district, community
4 college district or community college service district, the number of covered employees and depen-
5 dents and retired employees and dependents aggregates at least 500 individuals; and

6 (C) In the case of a joint program of two or more public bodies, the number of covered em-
7 ployees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

8 (b) The individual or jointly self-insured health insurance program includes all coverages and
9 benefits required of group health insurance policies under ORS chapters 743 and 743A;

10 (c) The individual or jointly self-insured program must have program documents that define
11 program benefits and administration;

12 (d) Enrollees must be provided copies of summary plan descriptions including:

13 (A) Written general information about services provided, access to services, charges and sched-
14 uling applicable to each enrollee's coverage;

15 (B) The program's grievance and appeal process; and

16 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-
17 tablished under ORS chapters 743 and 743A;

18 (e) The financial administration of an individual or jointly self-insured program must include the
19 following requirements:

20 (A) Program contributions and reserves must be held in separate accounts and used for the ex-
21 clusive benefit of the program;

22 (B) The program must maintain adequate reserves. Reserves may be invested in accordance with
23 the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper
24 actuarial calculations including the following:

25 (i) Known claims, paid and outstanding;

26 (ii) A history of incurred but not reported claims;

27 (iii) Claims handling expenses;

28 (iv) Unearned contributions; and

29 (v) A claims trend factor; and

30 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-
31 cordance with the provisions of ORS 742.065 unless the program has received written approval for
32 an alternative arrangement for protection against economic loss from the Director of the Depart-
33 ment of Consumer and Business Services;

34 (f) The individual or jointly self-insured program must have sufficient personnel to service the
35 employee benefit program or must contract with a third party administrator licensed under ORS
36 chapter 744 as a third party administrator to provide such services;

37 (g) The individual or jointly self-insured program shall be subject to assessment in accordance
38 with ORS 735.614 and former enrollees shall be eligible for portability coverage in accordance with
39 ORS 735.616;

40 (h) The public body, or the program administrator in the case of a joint insurance program of
41 two or more public bodies, files with the Director of the Department of Consumer and Business
42 Services copies of all documents creating and governing the program, all forms used to communicate
43 the coverage to beneficiaries, the schedule of payments established to support the program and,
44 annually, a financial report showing the total incurred cost of the program for the preceding year.
45 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing

1 requirement; and

2 (i) Each public body in a joint insurance program is liable only to its own employees and no
3 others for benefits under the program in the event, and to the extent, that no further funds, in-
4 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

5 (7) All ambulance services.

6 (8) A person providing any of the services described in this subsection. The exemption under this
7 subsection does not apply to an authorized insurer providing such services under an insurance pol-
8 icy. This subsection applies to the following services:

9 (a) Towing service.

10 (b) Emergency road service, which means adjustment, repair or replacement of the equipment,
11 tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated
12 under its own power.

13 (c) Transportation and arrangements for the transportation of human remains, including all
14 necessary and appropriate preparations for and actual transportation provided to return a
15 decedent's remains from the decedent's place of death to a location designated by a person with
16 valid legal authority under ORS 97.130.

17 (9)(a) A person described in this subsection who, in an agreement to lease or to finance the
18 purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in par-
19 agraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft
20 or other occurrence, as specified in the agreement. The exemption established in this subsection
21 applies to the following persons:

22 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-
23 stallment contract.

24 (B) The lessor of the motor vehicle.

25 (C) The lender who finances the purchase of the motor vehicle.

26 (D) The assignee of a person described in this paragraph.

27 (b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,
28 between the amount received by the seller, lessor, lender or assignee, as applicable, which repres-
29 ents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the
30 agreement.

31 **(10) A community-based health care initiative approved by the Administrator of the Of-**
32 **ice for Oregon Health Policy and Research under section 2 of this 2009 Act operating a**
33 **community-based health care improvement program approved by the administrator.**

34 **SECTION 6. This 2009 Act being necessary for the immediate preservation of the public**
35 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
36 **on its passage.**