

MEASURE: HB 2679-A4

EXHIBIT: K

Senate Finance and Revenue 76<sup>th</sup> Session

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SUBMITTED BY: Bryan Boehringer

## MEMORANDUM

To: Chair Ginny Burdick  
Vice-Chair Frank Morse  
Members of the Senate Finance and Revenue Committee

From: Bryan Boehringer, OMA  
Courtnei Dresser, OMA  
Rose Cox, OASCA  
Elise Brown, AHIP

Date: June 13, 2011

Re: Overpayment Fix Amendment

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The Oregon Medical Association (OMA), Oregon Ambulatory Surgical Centers Association (OASCA) and America's Health Insurance Plans (AHIP) have worked throughout session to negotiate and come to consensus on the issue of overpayment recovery.

### What the Amendment Does:

In 2009 the Oregon Legislature passed SB 508, which set new timelines for an insurer to request an overpayment refund from a physician or other provider, and for a physician or other provider to request the correction of an underpayment from an insurer. Prior to enactment of SB 508, if an insurer discovered it had overpaid a claim or mistakenly paid a claim it should not have, the insurer had an unlimited amount of time to request a refund or to offset reimbursement of future claims. SB 508 established new timelines that allowed these requests to be made up to 24 months from the time of the claim.

Unfortunately, that legislation inadvertently created some problems for providers and clinics attempting to comply with the new provision. The proposed amendment contains a compromise that was negotiated by the health insurers, physicians and ambulatory surgical centers to fix the unintended consequences of SB 508. The compromise adds a new timely filing deadline and revises the existing timelines for refunds:

- This amendment fixes the unintended elimination of a provider's ability to receive reimbursement for services when more than one insurer is involved. The legislation adds new language to the existing timely filing statute to accommodate circumstances in which a provider cannot timely bill one insurer as a result of having billed another insurer. The bill would amend the timely filing statute so providers could bill the appropriate insurer within 12 months after the denial of the claim or request for refund from the previous insurer.
- After agreeing to shorten the timely filing timeline to 12 months, the insurers and physicians negotiated new timelines to address insurer overpayment requests and provider underpayment requests. Physicians and insurers will have no more than 18 months to request an overpayment or underpayment.

- This amendment also clarifies the legislative intent of the original legislation that an overpayment refund or underpayment request can be submitted to the health care provider or insurer no more than 18 months after the claim has been submitted, but that time frame can be shortened to any period less than 18 months if both parties to a contract agree.

**Why this amendment is in front of the Senate Finance and Revenue Committee:**

Two initial bills were introduced this session on the issue, SB 231, sponsored by the OMA and SB 573, sponsored by OASCA. Both bills received public hearings in the Senate and the OMA and OASCA agreed to combine the bills and use SB 573 as the vehicle. SB 573 passed the Senate on April 21 with a 20 to 9 vote. When SB 573 was sent to the Senate floor it lacked the support of the insurers and it did not include important timely filing language.

On the House side, SB 573 received a public hearing and the parties were brought together to come to consensus. An agreement was reached with the insurers, the OMA and OASCA, but unfortunately, the agreed upon language was too broad for the narrow relating to clause on SB 573.

To recap:

- This language is a consensus agreement between AHIP, OMA and OASCA.
- The concepts in this agreement have had public hearings in the Senate and the House.
- The concepts in this agreement were passed on the Senate floor 20-9.
- The reason this bill missed the deadlines is because the parties negotiated a consensus agreement and then that agreement was too broad for the existing "relating to" clause.

Please support including this amendment into HB 2679-A.