

House Bill 2097

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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 Oregon Prescription Drug Program to include coverage of medical supplies necessary for using or administering prescription drugs.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to medical supplies; amending ORS 414.312, 414.314 and 414.318; and declaring an emer-
3 gency.

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

5 **SECTION 1.** ORS 414.312 is amended to read:

6 414.312. (1) As used in ORS 414.312 to 414.318:

7 (a) **“Ancillary medical supplies” means products other than prescription drugs that are**
8 **covered under a prescription drug program with or without a prescription and are necessary**
9 **for the use or administration of prescription drugs.**

10 [(a)] (b) **“Pharmacy benefit manager” means an entity that negotiates and executes contracts**
11 **with pharmacies, manages preferred drug lists, negotiates rebates with [prescription drug] manufac-**
12 **turers of prescription drugs and ancillary medical supplies and serves as an intermediary be-**
13 **tween the Oregon Prescription Drug Program, [prescription drug] manufacturers and pharmacies.**

14 [(b)] (c) **“Prescription drug claims processor” means an entity that processes and pays [pre-**
15 **scription drug] claims for prescription drugs and ancillary medical supplies, adjudicates phar-**
16 **macy claims, transmits prescription drug prices and claims data between pharmacies and the Oregon**
17 **Prescription Drug Program and processes related payments to pharmacies.**

18 [(c)] (d) **“Program price” means the reimbursement rates and [prescription drug] prices for**
19 **prescription drugs and ancillary medical supplies established by the administrator of the Oregon**
20 **Prescription Drug Program.**

21 (2) The Oregon Prescription Drug Program is established in the Oregon Health Authority. The
22 purpose of the program is to:

23 (a) Purchase prescription drugs **and ancillary medical supplies**, replenish [prescription] drugs
24 **and supplies** dispensed or reimburse pharmacies for [prescription] drugs **and supplies** in order to
25 receive discounted prices and rebates;

26 (b) Make prescription drugs **and ancillary medical supplies** available at the lowest possible
27 cost to participants in the program as a means to promote health;

28 (c) Maintain a list of prescription drugs recommended as the most effective prescription drugs
29 available at the best possible prices; and

30 (d) Promote health through the purchase and provision of discount prescription drugs **and an-**

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 **ancillary medical supplies** and coordination of comprehensive prescription benefit services for eligible
 2 entities and members.

3 (3) The Director of the Oregon Health Authority shall appoint an administrator of the Oregon
 4 Prescription Drug Program. The administrator may:

5 (a) Negotiate price discounts and rebates on prescription drugs **and ancillary medical supplies**
 6 with [*prescription drug*] manufacturers or group purchasing organizations;

7 (b) Purchase prescription drugs **and ancillary medical supplies** on behalf of individuals and
 8 entities that participate in the program;

9 (c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and
 10 transmit program prices to pharmacies;

11 (d) Determine program prices and reimburse or replenish pharmacies for prescription drugs **and**
 12 **ancillary medical supplies** dispensed or transferred;

13 (e) Adopt and implement a preferred drug list for the program;

14 (f) Develop a system for allocating and distributing the operational costs of the program and any
 15 rebates obtained to participants of the program; and

16 (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs
 17 **and ancillary medical supplies**.

18 (4) The following individuals or entities may participate in the program:

19 (a) Public Employees' Benefit Board, Oregon Educators Benefit Board and Public Employees
 20 Retirement System;

21 (b) Local governments as defined in ORS 174.116 and special government bodies as defined in
 22 ORS 174.117 that directly or indirectly purchase prescription drugs;

23 (c) Oregon Health and Science University established under ORS 353.020;

24 (d) State agencies that directly or indirectly purchase prescription drugs **and ancillary medical**
 25 **supplies**, including agencies that dispense prescription drugs **and ancillary medical supplies** di-
 26 rectly to persons in state-operated facilities;

27 (e) Residents of this state who lack or are underinsured for prescription drug coverage;

28 (f) Private entities; and

29 (g) Labor organizations.

30 (5) The state agency that receives federal Medicaid funds and is responsible for implementing
 31 the state's medical assistance program may not participate in the program.

32 (6) The administrator may establish different program prices for pharmacies in rural areas to
 33 maintain statewide access to the program.

34 (7) The administrator may establish the terms and conditions for a pharmacy to enroll in the
 35 program. A licensed pharmacy that is willing to accept the terms and conditions established by the
 36 administrator may apply to enroll in the program.

37 (8) Except as provided in subsection [(10)] (9) of this section, the administrator may not:

38 (a) Contract with a pharmacy benefit manager;

39 (b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

40 (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs **or**
 41 **ancillary medical supplies** dispensed through the program.

42 (9) The administrator shall contract with one or more entities to perform any of the functions
 43 of the program, including but not limited to:

44 (a) Contracting with a pharmacy benefit manager and directly or indirectly with such pharmacy
 45 networks as the administrator considers necessary to maintain statewide access to the program.

1 (b) Negotiating with [*prescription drug*] manufacturers **of prescription drugs and ancillary**
2 **medical supplies** on behalf of the administrator.

3 (10) Notwithstanding subsection (4)(e) of this section, individuals who are eligible for Medicare
4 Part D prescription drug coverage may participate in the program.

5 (11) The program may contract with vendors as necessary to utilize discount purchasing pro-
6 grams, including but not limited to group purchasing organizations established to meet the criteria
7 of the Nonprofit Institutions Act, 15 U.S.C. 13c, or that are exempt under the Robinson-Patman Act,
8 15 U.S.C. 13.

9 **SECTION 2.** ORS 414.314 is amended to read:

10 414.314. (1) An individual or entity described in ORS 414.312 (4) may apply to participate in the
11 Oregon Prescription Drug Program. Participants shall apply on an application provided by the
12 Oregon Health Authority. The authority may charge participants a nominal fee to participate in the
13 program. The authority shall issue a prescription drug identification card to participants of the
14 program.

15 (2) The authority shall provide a mechanism to calculate and transmit the program prices for
16 prescription drugs **and ancillary medical supplies** to a pharmacy. The pharmacy shall charge the
17 participant the program price for a prescription drug **or an ancillary medical supply**.

18 (3) A pharmacy may charge the participant the professional dispensing fee set by the authority.

19 (4) Prescription drug identification cards issued under this section must contain the information
20 necessary for proper claims adjudication or transmission of price data.

21 **SECTION 3.** ORS 414.318 is amended to read:

22 414.318. The Prescription Drug Purchasing Fund is established separate and distinct from the
23 General Fund. The Prescription Drug Purchasing Fund shall consist of moneys appropriated to the
24 fund by the Legislative Assembly and moneys received by the Oregon Health Authority for the
25 purposes established in this section in the form of gifts, grants, bequests, endowments or donations.
26 The moneys in the Prescription Drug Purchasing Fund are continuously appropriated to the au-
27 thority and shall be used to purchase prescription drugs **and ancillary medical supplies**, reimburse
28 pharmacies for prescription drugs **and ancillary medical supplies** and reimburse the authority for
29 the costs of administering the Oregon Prescription Drug Program, including contracted services
30 costs, computer costs, professional dispensing fees paid to retail pharmacies and other reasonable
31 program costs. Interest earned on the fund shall be credited to the fund.

32 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
33 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
34 **on its passage.**

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