

# House Bill 2377

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care)

## 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**.

Modifies definition of "type B hospital" for purposes of Medicaid reimbursement rates to require hospital to have five-year average operating margin of five percent or less. Requires Oregon Health Authority to prescribe methodology by rule for determining five-year average operating margin.

## A BILL FOR AN ACT

1  
2 Relating to Medicaid reimbursement of type B hospitals; creating new provisions; and amending ORS  
3 414.025, 414.727, 414.728 and 414.743.

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

5 **SECTION 1.** ORS 414.025, as amended by section 1, chapter 73, Oregon Laws 2010, is amended  
6 to read:

7 414.025. As used in this chapter, unless the context or a specially applicable statutory definition  
8 requires otherwise:

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

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

14 (a) Is receiving a category of aid.

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

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

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

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

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

24 (f) Is under the age of 21 years and:

25 (A) Is in a foster family home or licensed child-caring agency or institution and is one for whom  
26 a public agency of this state is assuming financial responsibility, in whole or in part; or

27 (B) Is 18 years of age or older, is one for whom federal financial participation is available under  
28 Title XIX or XXI of the federal Social Security Act and who met the criteria in subparagraph (A)  
29 of this paragraph immediately prior to the person's 18th birthday.

30 (g) Is a spouse of an individual receiving a category of aid and who is living with the recipient

**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 of a category of aid, whose needs and income are taken into account in determining the cash needs  
2 of the recipient of a category of aid, and who is determined by the Department of Human Services  
3 to be essential to the well-being of the recipient of a category of aid.

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

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

8 (j) Is under the age of 21 years and is in an intermediate care facility which includes institutions  
9 for persons with mental retardation.

10 (k) Is under the age of 22 years and is in a psychiatric hospital.

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

13 (m) Is a member of a family that received aid in the preceding month under ORS 412.006 or  
14 412.014 and became ineligible for aid due to increased hours of or increased income from employ-  
15 ment. As long as the member of the family is employed, such families will continue to be eligible for  
16 medical assistance for a period of at least six calendar months beginning with the month in which  
17 such family became ineligible for assistance due to increased hours of employment or increased  
18 earnings.

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

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

23 (p) Is an individual or member of a group who, subject to the rules of the department, may op-  
24 tionally be included in the state's medical assistance program under federal law and regulations  
25 concerning the availability of federal funds for the expenses of that individual or group.

26 (q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and  
27 418.647, whether or not the woman is eligible for cash assistance.

28 (r) Except as otherwise provided in this section, is a pregnant woman or child for whom federal  
29 financial participation is available under Title XIX or XXI of the federal Social Security Act.

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

35 (t) Would be eligible for a category of aid but for the receipt of qualified long term care insur-  
36 ance benefits under a policy or certificate issued on or after January 1, 2008. As used in this para-  
37 graph, "qualified long term care insurance" means a policy or certificate of insurance as defined in  
38 ORS 743.652 (6).

39 (u) Is eligible for the Health Care for All Oregon Children program established in ORS 414.231.

40 (3) "Income" has the meaning given that term in ORS 411.704.

41 (4) "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable in-  
42 struments as defined in ORS 73.0104 and such similar investments or savings as the Department of  
43 Human Services may establish by rule that are available to the applicant or recipient to contribute  
44 toward meeting the needs of the applicant or recipient.

45 (5) "Medical assistance" means so much of the following medical and remedial care and services

1 as may be prescribed by the Oregon Health Authority according to the standards established pur-  
 2 suant to ORS 413.032, including payments made for services provided under an insurance or other  
 3 contractual arrangement and money paid directly to the recipient for the purchase of medical care:

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

5 (b) Outpatient hospital services;

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

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

8 (e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled  
 9 nursing facility or elsewhere;

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

12 (g) Home health care services;

13 (h) Private duty nursing services;

14 (i) Clinic services;

15 (j) Dental services;

16 (k) Physical therapy and related services;

17 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter  
 18 689;

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

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

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

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

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

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

30 (s) Hospice services.

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

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

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

41 **(9) "Rural critical access hospital" has the meaning given that term in ORS 315.613.**

42 **(10) "Type A hospital" means a type A hospital as described in ORS 442.470.**

43 **(11) "Type B hospital" means a hospital that:**

44 **(a) Is small and rural according to standards established by the Office of Rural Health;**

45 **(b) Was not designated by the federal government as a rural referral hospital before**

1 **January 1, 1989; and**

2 (c) **Has a five-year average operating margin of five percent or less according to meth-**  
 3 **odologies prescribed by the Oregon Health Authority by rule.**

4 **SECTION 2.** ORS 414.727 is amended to read:

5 414.727. (1) A prepaid managed care health services organization, as defined in ORS 414.736, that  
 6 contracts with the Oregon Health Authority under ORS 414.725 (1) to provide prepaid managed care  
 7 health services, including hospital services, shall reimburse type A and type B hospitals and rural  
 8 critical access hospitals[, *as described in ORS 442.470 and identified by the Office of Rural Health*  
 9 *as rural hospitals,*] fully for the cost of covered services based on the cost-to-charge ratio used for  
 10 each hospital in setting the capitation rates paid to the prepaid managed care health services or-  
 11 ganization for the contract period.

12 (2) The authority shall base the capitation rates described in subsection (1) of this section on  
 13 the most recent audited Medicare cost report for Oregon hospitals adjusted to reflect the Medicaid  
 14 mix of services.

15 (3) This section may not be construed to prohibit a prepaid managed care health services or-  
 16 ganization and a hospital from mutually agreeing to reimbursement other than the reimbursement  
 17 specified in subsection (1) of this section.

18 (4) Hospitals reimbursed under subsection (1) of this section are not entitled to any additional  
 19 reimbursement for services provided.

20 **SECTION 3.** ORS 414.728 is amended to read:

21 414.728. For services provided to persons who are entitled to receive medical assistance and  
 22 whose medical assistance benefits are not administered by a prepaid managed care health services  
 23 organization, as defined in ORS 414.736, the Oregon Health Authority shall reimburse type A and  
 24 type B hospitals and rural critical access hospitals[, *as described in ORS 442.470 and identified by*  
 25 *the Office of Rural Health as rural hospitals,*] fully for the cost of covered services based on the most  
 26 recent audited Medicare cost report for Oregon hospitals adjusted to reflect the Medicaid mix of  
 27 services.

28 **SECTION 4.** ORS 414.743 is amended to read:

29 414.743. (1) A fully capitated health plan that does not have a contract with a hospital to pro-  
 30 vide inpatient or outpatient hospital services under ORS 414.705 to 414.750 must, using a Medicare  
 31 payment methodology, reimburse the noncontracting hospital for services provided to an enrollee  
 32 of the plan at a rate no less than a percentage of the Medicare reimbursement rate for those ser-  
 33 vices. The percentage of the Medicare reimbursement rate that is used to determine the reimburse-  
 34 ment rate under this subsection is equal to two percentage points less than the percentage of  
 35 Medicare cost used by the authority in calculating the base hospital capitation payment to the plan,  
 36 excluding any supplemental payments.

37 (2) A hospital that does not have a contract with a fully capitated health plan to provide inpa-  
 38 tient or outpatient hospital services under ORS 414.705 to 414.750 must accept as payment in full  
 39 for hospital services the rates described in subsection (1) of this section.

40 (3) This section does not apply to type A and type B hospitals[, *as described in ORS 442.470,*]  
 41 and rural critical access hospitals[, *as defined in ORS 315.613.*]

42 (4) The Oregon Health Authority shall adopt rules to implement and administer this section.

43 **SECTION 5. The amendments to ORS 414.025, 414.727, 414.728 and 414.743 by sections 1**  
 44 **to 4 of this 2011 Act apply to contracts or agreements entered into by the Oregon Health**  
 45 **Authority or the Department of Human Services with hospitals on or after the effective date**

1 **of this 2011 Act.**

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