

A-Engrossed House Bill 2087

Ordered by the House April 18
Including House Amendments dated April 18

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Health Authority)

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 Oregon Health Authority to submit written report on legislative changes that will need to be made during 2015 regular session of Legislative Assembly to align state law with federal laws concerning health care delivery.]

Authorizes designee of local correctional facility, Department of Corrections institution or youth correction facility to apply for medical assistance on behalf of person residing in facility or institution, in order to qualify person for medical assistance coverage of hospitalization occurring outside facility or institution. Authorizes designee to obtain otherwise confidential information, including Social Security number, only for purposes of applying for assistance and prohibits redisclosure of information without authorization from resident of facility or institution.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care delivery; amending ORS 414.440 and 419C.550; and declaring an emergency.

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

4 **SECTION 1.** ORS 414.440 is amended to read:

5 414.440. (1) **As used in this section, "correctional facility" means:**

6 (a) **A local correctional facility as defined in ORS 169.005;**

7 (b) **A Department of Corrections institution as defined in ORS 421.005; or**

8 (c) **A youth correction facility as defined in ORS 162.135.**

9 *[(1)]* (2) The Department of Human Services or the Oregon Health Authority shall suspend, in-
10 stead of terminate, the medical assistance of a person who *[becomes an inmate of a local]* **is residing**
11 **in a correctional facility**, *as defined in ORS 169.005,* and who is expected to remain in the *[local]*
12 correctional facility for no more than 12 months.

13 *[(2)]* (3) Upon notification that a person described in subsection *[(1)]* (2) of this section is *[no*
14 *longer an inmate]* **not** residing in a *[local]* correctional facility, the department or the authority shall
15 reinstate the person's medical assistance if the person is eligible for medical assistance.

16 (4)(a) **A designee of a correctional facility may apply for medical assistance on behalf of**
17 **a person, while the person is residing in the correctional facility, for the purpose of estab-**
18 **lishing eligibility for medical assistance during a period of hospitalization that will occur**
19 **outside of the correctional facility.**

20 (b) **The designee may obtain information necessary to determine eligibility for medical**
21 **assistance, including the person's Social Security number or information that is not other-**
22 **wise subject to disclosure under ORS 411.320 or 413.175. The information obtained under this**

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 paragraph may be used only for the purpose of assisting the person in applying for medical
2 assistance and may not be redisclosed without the person's authorization.

3 (c) If the person is determined eligible for medical assistance, the effective date of the
4 person's medical assistance shall be the date the person begins the period of hospitalization
5 outside of the correctional facility.

6 [(3)] (5) This section does not extend eligibility to an otherwise ineligible person or extend
7 medical assistance to a person if matching federal funds are not available to pay for the medical
8 assistance.

9 **SECTION 2.** ORS 419C.550 is amended to read:

10 419C.550. A person, agency or institution having legal custody of a youth or youth offender has
11 the following duties and authority:

12 (1) To have physical custody and control of the youth or youth offender.

13 (2) To supply the youth or youth offender with food, clothing, shelter and incidental necessities.

14 (3) To provide the youth or youth offender with care, education and discipline.

15 (4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial
16 care and treatment for the youth or youth offender, and, in an emergency when the youth or youth
17 offender's safety appears urgently to require it, to authorize surgery or other extraordinary care.

18 (5) To make such reports and to supply such information to the court as the court may from time
19 to time require.

20 (6) To apply for any Social Security benefits, [or] public assistance or medical assistance to
21 which the youth or youth offender is otherwise entitled and to use the benefits or assistance to
22 [pay] provide for the care of the youth or youth offender.

23 (7) To obtain and disclose information necessary to apply for Social Security benefits,
24 public assistance or medical assistance on behalf of the youth or youth offender including the
25 youth or youth offender's Social Security number or information that is not otherwise sub-
26 ject to disclosure under ORS 411.320 or 413.175. Information obtained under this subsection
27 may be used only for the purpose of applying for Social Security benefits, public assistance
28 or medical assistance on behalf of the youth or youth offender.

29 **SECTION 3.** This 2013 Act being necessary for the immediate preservation of the public
30 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
31 on its passage.

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FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2087 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Kim To
Reviewed by: Linda Ames, Linda Gilbert
Date: 4/16/2013

Measure Description:

Allows a designee of a correctional facility to apply for medical assistance on behalf of person residing in the correctional facility for establishing eligibility for medical assistance during a period of hospitalization that will occur outside of the correctional facility.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Oregon Youth Authority (OYA), Department of Corrections, local correctional facilities

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

House Bill 2087 A-Engrossed authorizes the Department of Corrections, the Oregon Youth Authority, and local correctional facilities to apply for medical assistance on behalf of inmates of the facilities, rather than the inmates being required to apply for themselves. The bill does not declare an emergency and would be assumed to be effective January 1, 2014.

This bill is anticipated to realize savings for the state. However, at this time, the full fiscal impact of this bill is indeterminate. As a point of reference, the Oregon Health Authority (OHA) provides the following information: OHA reports that corrections officials estimate that as many as 75% of potentially eligible inmates refuse to apply for Medicaid benefits given the choice. This bill allows a proxy or designated representative to complete and submit the application. With passage of this bill, it is anticipated that a larger number of inmates will be eligible for medical assistance coverage, and the state would be able to claim Medicaid matching funds for hospital inpatient care provided to incarcerated individuals through the Medical Assistance Programs (MAP), per federal law and regulation, which could result in savings for the Department of Corrections, Oregon Youth Authority, and local correctional entities. OHA estimates that the Department of Corrections could save approximately \$13 million in the 2013-15 biennium. The Oregon Youth Authority (OYA) estimates approximately \$70,000 in savings a biennium, based on actual hospitalization payments for youth under the custody of OYA. Extrapolating from data provided by Multnomah County, the Oregon Health Authority estimates that Multnomah County could save roughly between \$0.75 and 1.0 million in the 2013-15 biennium from submitting claims for inpatient services to Medicaid.

The Oregon Health Authority notes that the responsibility and liability for the information provided on the inmates' applications would be with the designated representative (i.e., the state or local entity that submits the application). This could result in overpayments that the entity would need to repay.

Currently, the OHA does not include corrections inpatient expenses in their budget. Should this bill become law, the Oregon Health Authority will require General Fund dollars and Federal Fund limitation to handle the increased claims. However, additional analysis would be required to determine the final impact of the bill.

In addition, the Department of Corrections requires more time and further analysis to predict the workload and expenditures that would be involved in applying for medical assistance.

The Oregon Youth Authority will use existing staff and resources to apply for medical assistance on behalf of youths under its custody.

REVENUE: No revenue impact
FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means
Vote:	9 - 0 - 0
Yeas:	Clem, Conger, Harker, Kennemer, Keny-Guyer, Lively, Thompson, Weidner, Greenlick
Nays:	0
Exc.:	0
Prepared By:	Tyler Larson, Administrator
Meeting Dates:	4/12

WHAT THE MEASURE DOES: Allows designee of correctional facility apply for medical assistance on behalf of person residing in facility for purpose of establishing eligibility for medical assistance during a period of hospitalization outside facility. Allows designee obtain information to determine eligibility. Requires effective date of medical assistance be date person begins hospitalization outside facility. Requires person, agency or institution having legal custody of youth or youth offender obtain and disclose information necessary for Social Security benefits, public assistance or medical assistance on behalf of youth or youth offender. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Provisions of the bill
- Medical costs of inmates and eligibility for medical assistance

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: Prison officials are obligated under the Eighth Amendment to provide prisoners with adequate medical care. According to *The Oregonian*, prison health services cost the state \$100 million per year and those costs are rising as the prison population gets older.

House Bill 2087-A will reduce some health care costs by allowing prison officials to seek medical assistance for qualifying individuals who will be receiving hospital treatment outside of facility.

4/16/2013 4:51:00 PM

This summary has not been adopted or officially endorsed by action of the committee.