

**America's Health
Insurance Plans**

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May 10, 2013

Senator Laurie Monnes-Anderson
State Senator, District 25
900 Court St, NE S-413
Salem, OR 97301

Senator Jeff Kruse
State Senator, District 1
900 Court St, NE S-315
Salem, OR 97301

Re: H.B. 2385 Court-Ordered "Drunk Driving" Insurance Mandate - OPPOSE

Dear Senators Monnes-Anderson and Kruse and Members of the Committee,

I write today on behalf of America's Health Insurance Plans (AHIP) to respectfully oppose H.B. 2385, legislation that would mandate that private health insurance pay for court-ordered treatment resulting from a "driving under the influence of intoxicants" ("DUII" or "drunk-driving") offense.

AHIP is the national trade association representing the health insurance industry. AHIP's members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare and Medicaid. Our members offer a broad range of health insurance products in the commercial marketplace and also have demonstrated a strong commitment to participation in public programs.

HB 2385 requires insurers to cover court-ordered chemical dependency treatment. Under current Oregon law (ORS 743A.168), health insurers are required to cover services that are part of substance abuse or mental health treatment. However, this coverage explicitly excludes treatment that is ordered by a court as part of the restitution for a DUII. Further, state law provides that a court may order a DUII offender to complete a sentence while at a treatment center and mandates that *the person* "Pay for the treatment program to which the person is referred." (see ORS 813.020 and 813.021(d)).

This bill is not only in conflict with the correctional code, it raises a number of legal, fiscal and public policy issues.

This bill would enact a new mandated benefit which would require the state to make an appropriation for all individual purchasers that obtain coverage through Cover Oregon. HB2385's reversal of the coverage exclusion brings into play Section 1311(d)(3)(B)(ii) of the Affordable Care Act, which requires that states "must defray the cost of any [required] additional benefits" over and above the Essential Health Benefit, enacted after Dec. 31, 2011. Alcohol and chemical dependency treatment for DUII offenders is not part of Oregon's Essential Health

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Benefit Benchmark Plan, and is explicitly excluded by current state law from the general mandate to cover chemical dependency treatment services. Therefore, if the Legislature enacts this mandate, then the Legislature must also provide funding for it.

A fiscal impact statement should be developed using DUII sentencing data to determine an overall likely incidence of use, to determine the impact on the state of what would be a new mandate. The state has two options on how to execute its responsibilities for new mandates under the ACA: The state may directly pay health insurance policyholders for the added cost of the mandate (presumably determined retroactively from carrier claims reports), or the state may reimburse insurers on behalf of policyholders and insurers would reflect this in future premiums. No mechanism yet exists in state government to handle this compliance process, which must be addressed if this mandate is enacted.

This bill removes a correctional punishment and must be evaluated by the Judiciary Committee. Because this bill would have the effect of repealing one of the possible punishments for DUII offenses – individual payment for treatment ordered under ORS 813.020 – if this committee chooses to approve the new mandate, then we would recommend referral to the Judiciary Committee for review of its possible impact on sentencing, followed by referral to Ways and Means for funding. The Judiciary committee must evaluate if it is in the public interest to remove such enforcement from the courts and place the burden instead on working families and small businesses, who would now have to pay for such correctional treatment through their health insurance premiums.

For these reasons, AHIP opposes HB 2385. If you have any questions, please do not hesitate to contact me at lgassaway@ahip.org (562-429-7493) or Elise Brown at (503-970-1235).

Sincerely,



Leanne D. Gassaway
Regional Vice President, State Advocacy