

A-Engrossed
House Bill 2216

Ordered by the House March 14
Including House Amendments dated March 14

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

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.

[Repeals] **Extends** sunset on collection of hospital assessment to **September 30, 2015**. *[Repeals premium, Medicaid managed care organization and Public Employees' Benefit Board assessments. Makes conforming changes.]* **Modifies payment methodology for reimbursement of specified hospitals by state medical assistance program. Authorizes quality improvement incentive payments to hospitals that meet standards adopted by Oregon Health Authority based on recommendations from hospital performance metrics advisory committee.**

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to state medical assistance program funding; creating new provisions; amending ORS
3 414.746 and sections 2, 3, 6, 7, 8, 9, 10, 12 and 13, chapter 736, Oregon Laws 2003; repealing ORS
4 414.746; prescribing an effective date; and providing for revenue raising that requires approval
5 by a three-fifths majority.

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

7 **SECTION 1. (1) As used in this section, "hospital" means a hospital that is subject to the**
8 **assessment imposed under section 2, chapter 736, Oregon Laws 2003.**

9 **(2) In consultation with the President of the Senate and the Speaker of the House of**
10 **Representatives, the Director of the Oregon Health Authority shall appoint a hospital per-**
11 **formance metrics advisory committee consisting of nine members, including:**

12 **(a) Four members who represent hospitals;**

13 **(b) Three members who have expertise in measuring health outcomes; and**

14 **(c) Two members who represent coordinated care organizations.**

15 **(3) The hospital performance metrics advisory committee shall recommend three to five**
16 **performance standards that are reasonably attainable by hospitals within the biennium be-**
17 **ginning July 1, 2013, and that are consistent with state and national quality standards.**

18 **(4) The Oregon Health Authority shall adopt by rule the procedures for distributing to**
19 **hospitals the moneys described in section 9 (2)(d), chapter 736, Oregon Laws 2003, to ensure**
20 **that such moneys are distributed as follows:**

21 **(a) The authority shall distribute 50 percent of the moneys based upon each hospital's**
22 **compliance with data submission requirements.**

23 **(b) The authority shall distribute the remainder of the moneys based upon each hospital's**
24 **achievement of the performance standards recommended by the hospital performance met-**
25 **rics advisory committee under subsection (3) of this section.**

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 **SECTION 2.** Section 2, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 780,
 2 Oregon Laws 2007, section 51, chapter 828, Oregon Laws 2009, and section 17, chapter 867, Oregon
 3 Laws 2009, is amended to read:

4 **Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital in this state that is
 5 not a waived hospital. The assessment shall be imposed at a rate determined by the Director of
 6 the Oregon Health Authority by rule that is the director's best estimate of the rate needed to fund
 7 the services and costs identified in section 9, chapter 736, Oregon Laws 2003. The rate of assessment
 8 shall be imposed on the net revenue of each hospital subject to assessment. The director shall con-
 9 sult with representatives of hospitals before setting the assessment.

10 (2) The assessment shall be reported on a form prescribed by the Oregon Health Authority and
 11 shall contain the information required to be reported by the authority. The assessment form shall
 12 be filed with the authority on or before the 75th day following the end of the calendar quarter for
 13 which the assessment is being reported. Except as provided in subsection (6) of this section, the
 14 hospital shall pay the assessment at the time the hospital files the assessment report. The payment
 15 shall accompany the report.

16 (3)(a) To the extent permitted by federal law, aggregate assessments imposed under this section
 17 may not exceed the total of the following amounts received by the hospitals that are reimbursed by
 18 Medicare based on diagnostic related groups:

19 [(A) *The adjustment to the capitation rate paid to Medicaid managed care organizations under*
 20 *section 15, chapter 867, Oregon Laws 2009;*]

21 [(B)] **(A)** 30 percent of payments made to **the** hospitals on a fee-for-service basis by the authority
 22 for inpatient hospital services; *[and]*

23 [(C)] **(B)** 41 percent of payments made to **the** hospitals on a fee-for-service basis by the authority
 24 for outpatient hospital services[.]; **and**

25 **(C) Payments made to the hospitals using a payment methodology established by the**
 26 **authority that advances the goals of the Oregon Integrated and Coordinated Health Care**
 27 **Delivery System described in ORS 414.620 (3).**

28 (b) Notwithstanding paragraph (a) of this subsection, aggregate assessments imposed for the
 29 biennium beginning July 1, [2009] **2013**, may exceed the total of the amounts described in paragraph
 30 (a) of this subsection to the extent necessary to compensate for any reduction of funding in the
 31 legislatively adopted budget for that biennium for hospital services under ORS [414.705 to 414.750]
 32 **414.631, 414.651 and 414.688 to 414.750.**

33 (4) Notwithstanding subsection (3) of this section, a hospital is not guaranteed that any addi-
 34 tional moneys paid to the hospital in the form of payments for services shall equal or exceed the
 35 amount of the assessment paid by the hospital.

36 (5) Hospitals operated by the United States Department of Veterans Affairs and pediatric spe-
 37 cialty hospitals providing care to children at no charge are exempt from the assessment imposed
 38 under this section.

39 (6)(a) The authority shall develop a schedule for collection of the assessment for the calendar
 40 quarter ending September 30, [2013] **2015**, that will result in the collection occurring between De-
 41 cember 15, [2013] **2015**, and the time all Medicaid cost settlements are finalized for that calendar
 42 quarter.

43 (b) The authority shall prescribe by rule criteria for late payment of assessments.

44 **SECTION 3.** Section 3, chapter 736, Oregon Laws 2003, is amended to read:

45 **Sec. 3.** (1) Notwithstanding section 2, [of this 2003 Act] **chapter 736, Oregon Laws 2003**, the

1 Director of *[Human Services]* **the Oregon Health Authority** shall reduce the rate of assessment
2 imposed under section 2, *[of this 2003 Act]* **chapter 736, Oregon Laws 2003**, to the maximum rate
3 allowed under federal law if the reduction is required to comply with federal law.

4 **(2) If federal law requires a reduction in the rate of assessments, the director shall, after**
5 **consulting with representatives of the hospitals that are subject to the assessments, first**
6 **reduce the distribution of moneys described in section 9 (2)(d), chapter 736, Oregon Laws**
7 **2003, by a corresponding amount.**

8 **SECTION 4.** Section 6, chapter 736, Oregon Laws 2003, is amended to read:

9 **Sec. 6.** (1) Any hospital that has paid an amount that is not required under sections 1 to 9, *[of*
10 *this 2003 Act]* **chapter 736, Oregon Laws 2003**, may file a claim for refund with the *[Department*
11 *of Human Services]* **Oregon Health Authority.**

12 (2) Any hospital that is aggrieved by an action of the *[Department of Human Services]* **authority**
13 or by an action of the Director of *[Human Services]* **the Oregon Health Authority** taken pursuant
14 to subsection (1) of this section shall be entitled to notice and an opportunity for a contested case
15 hearing under ORS chapter 183.

16 **SECTION 5.** Section 7, chapter 736, Oregon Laws 2003, is amended to read:

17 **Sec. 7.** The *[Department of Human Services]* **Oregon Health Authority** may audit the records
18 of any hospital in this state to determine compliance with sections 1 to 9, *[of this 2003 Act]* **chapter**
19 **736, Oregon Laws 2003, and section 1 of this 2013 Act.** The *[department]* **authority** may audit
20 records at any time for a period of five years following the date an assessment is due to be reported
21 and paid under section 2, *[of this 2003 Act]* **chapter 736, Oregon Laws 2003.**

22 **SECTION 6.** Section 8, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 757,
23 Oregon Laws 2005, is amended to read:

24 **Sec. 8.** Amounts collected by the *[Department of Human Services]* **Oregon Health Authority**
25 from the assessments imposed under section 2, chapter 736, Oregon Laws 2003, shall be deposited
26 in the Hospital Quality Assurance Fund established under section 9, chapter 736, Oregon Laws 2003.

27 **SECTION 7.** Section 9, chapter 736, Oregon Laws 2003, as amended by section 2, chapter 757,
28 Oregon Laws 2005, section 2, chapter 780, Oregon Laws 2007, section 53, chapter 828, Oregon Laws
29 2009, section 19, chapter 867, Oregon Laws 2009, and section 59, chapter 602, Oregon Laws 2011, is
30 amended to read:

31 **Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the State Treasury, separate
32 and distinct from the General Fund. Interest earned by the Hospital Quality Assurance Fund shall
33 be credited to the Hospital Quality Assurance Fund.

34 (2) Amounts in the Hospital Quality Assurance Fund are continuously appropriated to the
35 Oregon Health Authority for the purpose of:

36 (a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003 [, and];

37 (b) Funding services under ORS *[414.705 to 414.750]* **414.631, 414.651 and 414.688 to 414.750**,
38 including but not limited to[:]

39 *[(a)]* increasing reimbursement rates for inpatient and outpatient hospital services under ORS
40 *[414.705 to 414.750]* **414.631, 414.651 and 414.688 to 414.750**;

41 *[(b)]* *Maintaining, expanding or modifying services for persons described in ORS 414.025 (3)(s);]*

42 *[(c)]* *Maintaining or increasing the number of persons described in ORS 414.025 (3)(s) who are en-*
43 *rolled in the medical assistance program; and]*

44 *[(d)]* (c) **Making payments described in section 2 (3)(a)(C), chapter 736, Oregon Laws 2003;**

45 (d) **Making distributions, as described in section 1 (4) of this 2013 Act, of an amount of**

1 **moneys equal to the federal financial participation received from one percentage point of the**
2 **rate assessed under section 2, chapter 736, Oregon Laws 2003; and**

3 (e) Paying administrative costs incurred by the authority to administer **section 1 of this 2013**
4 **Act and** the assessments imposed under section 2, chapter 736, Oregon Laws 2003.

5 (3) Except for assessments imposed pursuant to section 2 (3)(b), chapter 736, Oregon Laws 2003,
6 the authority may not use moneys from the Hospital Quality Assurance Fund to supplant, directly
7 or indirectly, other moneys made available to fund services described in subsection (2) of this sec-
8 tion.

9 **SECTION 8.** Section 10, chapter 736, Oregon Laws 2003, as amended by section 3, chapter 780,
10 Oregon Laws 2007, and section 20, chapter 867, Oregon Laws 2009, is amended to read:

11 **Sec. 10.** Sections 1 to 9, chapter 736, Oregon Laws 2003, apply to net revenues earned by hos-
12 pitals during a period beginning October 1, [2009] **2013**, and ending the earlier of September 30,
13 [2013] **2015**, or the date on which the assessment no longer qualifies for federal [*matching funds*]
14 **financial participation** under Title XIX or XXI of the Social Security Act.

15 **SECTION 9.** Section 12, chapter 736, Oregon Laws 2003, as amended by section 4, chapter 780,
16 Oregon Laws 2007, and section 21, chapter 867, Oregon Laws 2009, is amended to read:

17 **Sec. 12.** Sections 1 to 9, chapter 736, Oregon Laws 2003, **and section 1 of this 2013 Act** are
18 repealed on January 2, [2015] **2017**.

19 **SECTION 10.** Section 13, chapter 736, Oregon Laws 2003, as amended by section 5, chapter 780,
20 Oregon Laws 2007, and section 22, chapter 867, Oregon Laws 2009, is amended to read:

21 **Sec. 13.** Nothing in the repeal of sections 1 to 9, chapter 736, Oregon Laws 2003, **and section**
22 **1 of this 2013 Act** by section 12, chapter 736, Oregon Laws 2003, affects the imposition and col-
23 lection of a hospital assessment under sections 1 to 9, chapter 736, Oregon Laws 2003, for a calendar
24 quarter beginning before September 30, [2013] **2015**.

25 **SECTION 11.** ORS 414.746 is amended to read:

26 414.746. (1) The Oregon Health Authority [*shall*] **may** establish an adjustment to the payments
27 made to a coordinated care organization [*defined in section 9, chapter 867, Oregon Laws 2009*].

28 (2) The contracts entered into between the authority and coordinated care organizations [*must*]
29 **may** include provisions that ensure that the adjustment to the payments established under sub-
30 section (1) of this section is distributed by the coordinated care organizations to hospitals located
31 in Oregon that receive Medicare reimbursement based upon diagnostic related groups.

32 [*(3) The adjustment to the capitation rate paid to coordinated care organizations shall be estab-*
33 *lished in an amount consistent with the legislatively adopted budget and the aggregate assessment im-*
34 *posed pursuant to section 2, chapter 736, Oregon Laws 2003.*]

35 **SECTION 12.** ORS 414.746 is repealed.

36 **SECTION 13.** (1) **The Director of the Oregon Health Authority shall apply to the federal**
37 **Centers for Medicare and Medicaid Services for any approval necessary to secure federal fi-**
38 **ancial participation in the distributions described in section 9 (2)(d), chapter 736, Oregon**
39 **Laws 2003, as amended by section 7 of this 2013 Act, and in using the payment methodology**
40 **described in section 2 (3)(a)(C), chapter 736, Oregon Laws 2003, as amended by section 2 of**
41 **this 2013 Act.**

42 (2) **The Director of the Oregon Health Authority shall immediately notify the Legislative**
43 **Counsel upon receipt of federal approval or disapproval under this section.**

44 **SECTION 14.** (1) **Section 1 of this 2013 Act and the amendments to ORS 414.746 and**
45 **sections 2, 3, 6, 7, 8, 9, 10, 12 and 13, chapter 736, Oregon Laws 2003, by sections 2 to 11 of**

1 **this 2013 Act become operative on the date that the Director of the Oregon Health Authority**
2 **notifies the Legislative Counsel that the director received federal approval as described in**
3 **section 13 of this 2013 Act.**

4 **(2) The repeal of ORS 414.746 by section 12 of this 2013 Act becomes operative April 1,**
5 **2014.**

6 **SECTION 15. This 2013 Act takes effect on the 91st day after the date on which the 2013**
7 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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