

# House Bill 3108

Sponsored by Representative WHISNANT

## 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**.

Requires Oregon Health Authority to contract with entity to establish and operate technologies designed to detect and prevent improper payments in state medical assistance program.

### A BILL FOR AN ACT

1  
2 Relating to payment integrity for the state medical assistance program.

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

4 **SECTION 1. The Legislative Assembly intends to implement waste, fraud and abuse de-**  
5 **tection, prevention and recovery solutions to:**

6 (1) **Improve payment integrity for the state medical assistance program and create effi-**  
7 **ciency and cost savings through a shift from a retrospective "pay and chase" model to a**  
8 **prospective prepayment model; and**

9 (2) **Comply with payment integrity provisions of the federal Patient Protection and Af-**  
10 **fordable Care Act (P.L. 111-148) and the Health Care and Education Reconciliation Act of 2010**  
11 **(P.L. 111-152).**

12 **SECTION 2. (1) The Oregon Health Authority shall maintain a database containing the**  
13 **following information about health care providers:**

14 (a) **Whether a provider has died or retired;**

15 (b) **Sanctions imposed for fraud;**

16 (c) **Status of licensure in this state; and**

17 (d) **Current mailing and business addresses.**

18 (2) **The authority shall continuously check provider billing data against the database de-**  
19 **scribed in subsection (1) of this section for the purposes of automating reviews and identi-**  
20 **fying and preventing improper state medical assistance payments to providers.**

21 **SECTION 3. The Oregon Health Authority shall implement state-of-the-art clinical code**  
22 **editing technology solutions to automate claims resolution and enhance cost containment**  
23 **through improved claim accuracy and appropriate code correction. The technology shall**  
24 **identify and prevent errors or potential overbilling based on widely accepted and transparent**  
25 **protocols such as the protocols developed by the American Medical Association or the Cen-**  
26 **ters for Medicare and Medicaid Services. The editing technology shall be applied automat-**  
27 **ically before claims are adjudicated to speed processing and minimize the number of pended**  
28 **or rejected claims and to help ensure a smooth, consistent and transparent adjudication**  
29 **process without delays in provider reimbursement.**

30 **SECTION 4. The Oregon Health Authority shall implement state-of-the-art predictive**  
31 **technologies to provide a comprehensive and accurate view across all providers, recipients**

**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 and geographic regions within the state medical assistance program. The predictive tech-  
 2 nologies must enable the authority to:

3 (1) Identify and analyze billing or utilization patterns that represent a high risk of  
 4 fraudulent activity before payment is made to minimize disruptions to the workflow and  
 5 speed resolution of medical assistance claims;

6 (2) Prioritize transactions identified as likely for potential waste, fraud or abuse to re-  
 7 ceive additional review before payment is made;

8 (3) Capture outcome information from adjudicated claims to allow for refinement and  
 9 enhancement of the predictive analytics technologies based on historical data and algorithms  
 10 within the system; and

11 (4) Prevent the payment of claims for reimbursement that have been identified as po-  
 12 tentially wasteful, fraudulent or abusive until the claims have been automatically verified as  
 13 valid.

14 **SECTION 5.** The Oregon Health Authority shall implement fraud investigative services  
 15 that combine retrospective claims analysis and prospective waste, fraud or abuse detection  
 16 techniques. These services shall include analysis of historical claims data, medical records,  
 17 suspect provider databases and high-risk identification lists, as well as direct patient and  
 18 provider interviews. Emphasis shall be placed on providing education to providers and en-  
 19 suring that providers have the opportunity to review and correct any problems identified  
 20 prior to adjudication.

21 **SECTION 6.** The Oregon Health Authority shall implement claims audit and recovery  
 22 services to identify improper medical assistance payments due to nonfraudulent issues and  
 23 audit claims, to obtain provider sign-off on the audit results and to recover validated over-  
 24 payments. Post-payment reviews must ensure that the diagnoses and procedure codes are  
 25 accurate and valid based on the supporting physician documentation within the medical re-  
 26 cords.

27 **SECTION 7.** To implement sections 2 to 6 of this 2013 Act, the Oregon Health Authority  
 28 shall either enter into a contract with The Cooperative Purchasing Network to issue a re-  
 29 quest for proposals to select a contractor or use the following contractor selection process:

30 (1) The authority shall issue a request for information to seek input from potential con-  
 31 tractors on capabilities and cost structures associated with the scope of work of sections 2  
 32 to 6 of this 2013 Act. The results of the request for information shall be used by the authority  
 33 to create a formal request for proposals to be issued within 90 days of the closing date of the  
 34 request for information.

35 (2) No later than 90 days after the close of the request for information, the authority  
 36 shall issue a formal request for proposals to carry out sections 2 to 6 of this 2013 Act during  
 37 the first year of implementation. To the extent appropriate, the authority may include sub-  
 38 sequent implementation years and may issue additional requests for proposals with respect  
 39 to subsequent implementation years.

40 (3) The authority shall select contractors to carry out sections 2 to 6 of this 2013 Act  
 41 using competitive procedures as provided for in the Public Contracting Code.

42 (4) The authority may enter into a contract under sections 2 to 6 of this 2013 Act with  
 43 an entity only if the entity:

44 (a) Can demonstrate appropriate technical, analytical and clinical knowledge and experi-  
 45 ence to carry out the functions included in sections 2 to 6 of this 2013 Act; or

1       **(b) Has a contract, or will enter into a contract, with another entity that meets the cri-**  
 2 **teria described in this subsection.**

3       **(5) The authority shall enter into a contract under sections 2 to 6 of this 2013 Act with**  
 4 **an entity only to the extent the entity complies with conflict of interest standards in the**  
 5 **Public Contracting Code.**

6       **SECTION 8.** Section 7 of this 2013 Act is amended to read:

7       **Sec. 7.** *[To implement sections 2 to 6 of this 2013 Act, the Oregon Health Authority shall either*  
 8 *enter into a contract with The Cooperative Purchasing Network to issue a request for proposals to se-*  
 9 *lect a contractor or use the following contractor selection process:]*

10       *[(1) The authority shall issue a request for information to seek input from potential contractors on*  
 11 *capabilities and cost structures associated with the scope of work of sections 2 to 6 of this 2013 Act.*  
 12 *The results of the request for information shall be used by the authority to create a formal request for*  
 13 *proposals to be issued within 90 days of the closing date of the request for information.]*

14       *[(2) No later than 90 days after the close of the request for information, the authority shall issue*  
 15 *a formal request for proposals to carry out sections 2 to 6 of this 2013 Act during the first year of*  
 16 *implementation. To the extent appropriate, the authority may include subsequent implementation years*  
 17 *and may issue additional requests for proposals with respect to subsequent implementation years.]*

18       *[(3)]* **(1)** The authority shall select contractors to carry out sections 2 to 6 of this 2013 Act using  
 19 competitive procedures as provided for in the Public Contracting Code.

20       *[(4)]* **(2)** The authority may enter into a contract under sections 2 to 6 of this 2013 Act with an  
 21 entity only if the entity:

22       (a) Can demonstrate appropriate technical, analytical and clinical knowledge and experience to  
 23 carry out the functions included in sections 2 to 6 of this 2013 Act; or

24       (b) Has a contract, or will enter into a contract, with another entity that meets the criteria  
 25 described in this subsection.

26       *[(5)]* **(3)** The authority shall enter into a contract under sections 2 to 6 of this 2013 Act with  
 27 an entity only to the extent the entity complies with conflict of interest standards in the Public  
 28 Contracting Code.

29       **SECTION 9.** **The Oregon Health Authority shall provide to an entity that has entered into**  
 30 **a contract under sections 2 to 6 of this 2013 Act the appropriate access to medical assistance**  
 31 **claims and other data necessary for the entity to carry out the functions described in**  
 32 **sections 2 to 6 of this 2013 Act. The access provided includes, but is not limited to, previous**  
 33 **and current state medical assistance claims, provider database information and regulatory**  
 34 **action taken or deemed necessary to facilitate appropriate public and private data sharing**  
 35 **across multiple managed care organizations and coordinated care organizations or otherwise.**

36       **SECTION 10.** **Not later than April 1, 2015, the Oregon Health Authority shall submit to**  
 37 **the appropriate committees of the Legislative Assembly and make available to the public a**  
 38 **report that includes the following:**

39       **(1) A description of the implementation and use of technologies included in sections 2 to**  
 40 **6 of this 2013 Act during the year;**

41       **(2) A certification by the authority that specifies the actual and projected savings to the**  
 42 **medical assistance program as a result of the use of these technologies, including estimates**  
 43 **of the amounts of the savings with respect to both improper payments recovered and im-**  
 44 **proper payments avoided;**

45       **(3) The actual and projected savings to the medical assistance program as a result of the**

1 use of technologies relative to the return on investment for the use of the technologies and  
 2 in comparison to other strategies or technologies used to prevent and detect fraud, waste,  
 3 and abuse;

4 (4) Any modifications or refinements that should be made to increase the amount of ac-  
 5 tual or projected savings or mitigate any adverse impact on medical assistance recipients or  
 6 providers;

7 (5) An analysis of the extent to which the use of these technologies successfully pre-  
 8 vented and detected waste, fraud or abuse in the state medical assistance program;

9 (6) A review of whether the technologies affected access to, or the quality of, items and  
 10 services furnished to medical assistance recipients; and

11 (7) A review of what effect, if any, the use of these technologies had on providers, in-  
 12 cluding assessment of provider education efforts and documentation of processes for pro-  
 13 viders to review and correct problems that are identified.

14 **SECTION 11.** Section 10 of this 2013 Act is amended to read:

15 **Sec. 10.** Not later than April 1[, 2015,] of each year, the Oregon Health Authority shall submit  
 16 to the appropriate committees of the Legislative Assembly and make available to the public a report  
 17 that includes the following:

18 (1) A description of the implementation and use of technologies included in sections 2 to 6 of  
 19 this 2013 Act during the year;

20 (2) A certification by the authority that specifies the actual and projected savings to the medical  
 21 assistance program as a result of the use of these technologies, including estimates of the amounts  
 22 of the savings with respect to both improper payments recovered and improper payments avoided;

23 (3) The actual and projected savings to the medical assistance program as a result of the use  
 24 of technologies relative to the return on investment for the use of the technologies and in compar-  
 25 ison to other strategies or technologies used to prevent and detect fraud, waste, and abuse;

26 (4) Any modifications or refinements that should be made to increase the amount of actual or  
 27 projected savings or mitigate any adverse impact on medical assistance recipients or providers;

28 (5) An analysis of the extent to which the use of these technologies successfully prevented and  
 29 detected waste, fraud or abuse in the state medical assistance program;

30 (6) A review of whether the technologies affected access to, or the quality of, items and services  
 31 furnished to medical assistance recipients; [and]

32 (7) A review of what effect, if any, the use of these technologies had on providers, including  
 33 assessment of provider education efforts and documentation of processes for providers to review and  
 34 correct problems that are identified[.]; and

35 (8) Any additional items that the authority deems appropriate with respect to the report  
 36 for the year.

37 **SECTION 12.** The Legislative Assembly intends that the savings achieved through  
 38 sections 2 to 6 of this 2013 Act will exceed the costs of implementation. Therefore, to the  
 39 extent possible, technology services used in carrying out sections 2 to 6 of this 2013 Act shall  
 40 be secured using a shared savings model, whereby the state's only direct cost will be a per-  
 41 centage of actual savings achieved. Further, to enable this model, a percentage of achieved  
 42 savings may be used to fund expenditures under sections 2 to 6 of this 2013 Act.

43 **SECTION 13.** The amendments to section 7 of this 2013 Act by section 8 of this 2013 Act  
 44 and the amendments to section 10 of this 2013 Act by section 11 of this 2013 Act become  
 45 operative January 1, 2016.

1        **SECTION 14.** The Director of the Oregon Health Authority may take any action prior to  
2 the effective date of this 2013 Act that is necessary to carry out sections 2 to 7 and 9 of this  
3 2013 Act on and after the effective date of this 2013 Act.

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