

**PROPOSED AMENDMENTS TO
HOUSE BILL 2216**

1 On page 1 of the printed bill, delete lines 3 through 6 and insert “414.746
2 and sections 1, 2, 3, 5, 6, 7, 8, 9, 10, 12 and 13, chapter 736, Oregon Laws 2003;
3 repealing ORS 414.746; appropriating money;”.

4 In line 7, delete “Oregon Laws 2009;”.

5 Delete lines 10 through 30 and delete pages 2 through 9 and insert:

6 **“SECTION 1. (1) The Hospital Transformation Performance Fund**
7 **is created in the State Treasury, separate and distinct from the Gen-**
8 **eral Fund. Moneys in the Hospital Transformation Performance Fund**
9 **are continuously appropriated to the Oregon Health Authority for the**
10 **purpose of carrying out this section.**

11 **“(2) An assessment is imposed on the net revenue of each hospital**
12 **that is subject to the assessment under section 2, chapter 736, Oregon**
13 **Laws 2003. The rate of the assessment under this section is equal to**
14 **one percentage point more than the rate established by the Director**
15 **of the Oregon Health Authority under section 2 (1), chapter 736,**
16 **Oregon Laws 2003. The assessment shall be paid into the Hospital**
17 **Quality Assurance Fund established in section 9, chapter 736, Oregon**
18 **Laws 2003. An amount equal to the federal financial participation re-**
19 **ceived on account of the assessment shall be transferred from the**
20 **Hospital Quality Assurance Fund to the Hospital Transformation Per-**
21 **formance Fund.**

22 **“(3) In consultation with the President of the Senate and the**

1 **Speaker of the House of Representatives, the Director of the Oregon**
2 **Health Authority shall appoint a hospital performance metrics advi-**
3 **sory committee consisting of nine members, including:**

4 **“(a) Four members who represent hospitals that are subject to the**
5 **assessment established in subsection (2) of this section;**

6 **“(b) Three members who have expertise in measuring health out-**
7 **comes; and**

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

9 **“(4) The hospital performance metrics advisory committee shall**
10 **recommend three to five cost, outcome and performance standards**
11 **that are reasonably attainable by hospitals within the biennium be-**
12 **ginning July 1, 2013, and that are consistent with state and national**
13 **quality standards.**

14 **“(5) The authority shall adopt by rule the procedures for allocating**
15 **moneys in the Hospital Transformation Performance Fund to ensure**
16 **that moneys in the fund are allocated as follows:**

17 **“(a) The authority shall distribute the moneys received from as-**
18 **sessments imposed during the first year of the biennium beginning**
19 **July 1, 2013, based upon each hospital’s compliance with data sub-**
20 **mission requirements.**

21 **“(b) The authority shall distribute the moneys received from as-**
22 **sessments imposed during the second year of the biennium beginning**
23 **July 1, 2013, based upon each hospital’s achievement of the cost, out-**
24 **come and performance standards recommended by the hospital per-**
25 **formance metrics advisory committee under subsection (4) of this**
26 **section.**

27 **“SECTION 2. Section 1, chapter 736, Oregon Laws 2003, as amended by**
28 **section 34, chapter 792, Oregon Laws 2009, is amended to read:**

29 **“Sec. 1. As used in sections 1 to 9, chapter 736, Oregon Laws 2003, and**
30 **section 1 of this 2013 Act:**

1 “(1) ‘Charity care’ means costs for providing inpatient or outpatient care
2 services free of charge or at a reduced charge because of the indigence or
3 lack of health insurance of the patient receiving the care services.

4 “(2) ‘Contractual adjustments’ means the difference between the amounts
5 charged based on the hospital’s full established charges and the amount re-
6 ceived or due from the payor.

7 “(3) ‘Hospital’ has the meaning given that term in ORS 442.015.
8 ‘Hospital’ does not include special inpatient care facilities.

9 “(4) ‘Net revenue’:

10 “(a) Means the total amount of charges for inpatient or outpatient care
11 provided by the hospital to patients, less charity care, bad debts and con-
12 tractual adjustments;

13 “(b) Does not include revenue derived from sources other than inpatient
14 or outpatient operations, including but not limited to interest and guest
15 meals; and

16 “(c) Does not include any revenue that is taken into account in computing
17 a long term care facility assessment under sections 15 to 22, **24 and 29**,
18 chapter 736, Oregon Laws 2003.

19 “(5) ‘Waivered hospital’ means a type A or type B hospital, as described
20 in ORS 442.470, a hospital that provides only psychiatric care or a hospital
21 identified by the Department of Human Services as appropriate for inclusion
22 in the application described in section 4, chapter 736, Oregon Laws 2003.

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

27 **“Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital
28 in this state that is not a waivered hospital. The assessment shall be imposed
29 at a rate determined by the Director of the Oregon Health Authority by rule
30 that is the director’s best estimate of the rate needed to fund the services

1 and costs identified in section 9, chapter 736, Oregon Laws 2003. The rate
2 of assessment shall be imposed on the net revenue of each hospital subject
3 to assessment. The director shall consult with representatives of hospitals
4 before setting the assessment.

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

12 “(3)(a) To the extent permitted by federal law, aggregate assessments im-
13 posed under this section may not exceed the total of the following amounts
14 received by the hospitals that are reimbursed by Medicare based on diag-
15 nostic related groups:

16 “[A] *The adjustment to the capitation rate paid to Medicaid managed care*
17 *organizations under section 15, chapter 867, Oregon Laws 2009;*]

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

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

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

26 “(b) Notwithstanding paragraph (a) of this subsection, aggregate assess-
27 ments imposed for the biennium beginning July 1, [2009] **2013**, may exceed
28 the total of the amounts described in paragraph (a) of this subsection to the
29 extent necessary to compensate for any reduction of funding in the
30 legislatively adopted budget for that biennium for hospital services under

1 ORS [414.705 to 414.750] **414.631, 414.651 and 414.688 to 414.750.**

2 “(4) Notwithstanding subsection (3) of this section, a hospital is not
3 guaranteed that any additional moneys paid to the hospital in the form of
4 payments for services shall equal or exceed the amount of the assessment
5 paid by the hospital.

6 “(5) Hospitals operated by the United States Department of Veterans Af-
7 fairs and pediatric specialty hospitals providing care to children at no charge
8 are exempt from the assessment imposed under this section.

9 “(6)(a) The authority shall develop a schedule for collection of the as-
10 sessment for the calendar quarter ending September 30, [2013] **2015**, that will
11 result in the collection occurring between December 15, [2013] **2015**, and the
12 time all Medicaid cost settlements are finalized for that calendar quarter.

13 “(b) The authority shall prescribe by rule criteria for late payment of
14 assessments **under this section and under section 1 of this 2013 Act.**

15 “**SECTION 4.** Section 3, chapter 736, Oregon Laws 2003, is amended to
16 read:

17 “**Sec. 3. (1)** Notwithstanding section 2, [*of this 2003 Act*] **chapter 736,**
18 **Oregon Laws 2003**, the Director of [*Human Services*] **the Oregon Health**
19 **Authority** shall reduce the rate of assessment imposed under section 2, [*of*
20 *this 2003 Act*] **chapter 736, Oregon Laws 2003, and section 1 of this 2013**
21 **Act** to the maximum rate allowed under federal law if the reduction is re-
22 quired to comply with federal law.

23 “**(2) If federal law requires a reduction in the rate of assessments,**
24 **the director shall, after consulting with representatives of the hospi-**
25 **tals that are subject to the assessments, first reduce the allocation of**
26 **moneys from the Hospital Transformation Performance Fund by a**
27 **corresponding amount.**

28 “**SECTION 5.** Section 5, chapter 736, Oregon Laws 2003, as amended by
29 section 52, chapter 828, Oregon Laws 2009, and section 18, chapter 867,
30 Oregon Laws 2009, is amended to read:

1 “**Sec. 5.** (1) A hospital that fails to file a report or pay an assessment
2 under section 2, chapter 736, Oregon Laws 2003, **or section 1 of this 2013**
3 **Act** by the date the report or payment is due shall be subject to a penalty
4 of up to \$500 per day of delinquency. The total amount of penalties imposed
5 under this section for each reporting period may not exceed five percent of
6 the assessment for the reporting period for which penalties are being im-
7 posed.

8 “(2) Penalties imposed under this section shall be collected by the Oregon
9 Health Authority and deposited in the Oregon Health Authority Fund es-
10 tablished under [*section 18, chapter 595, Oregon Laws 2009*] **ORS 413.101.**

11 “(3) Penalties paid under this section are in addition to and not in lieu
12 of the assessment imposed under section 2, chapter 736, Oregon Laws 2003,
13 **and section 1 of this 2013 Act.**

14 “**SECTION 6.** Section 6, chapter 736, Oregon Laws 2003, is amended to
15 read:

16 “**Sec. 6.** (1) Any hospital that has paid an amount that is not required
17 under sections 1 to 9, [*of this 2003 Act*] **chapter 736, Oregon Laws 2003,**
18 **or section 1 of this 2013 Act** may file a claim for refund with the [*Depart-*
19 *ment of Human Services*] **Oregon Health Authority.**

20 “(2) Any hospital that is aggrieved by an action of the [*Department of*
21 *Human Services*] **authority** or by an action of the Director of [*Human Ser-*
22 *vices*] **the Oregon Health Authority** taken pursuant to subsection (1) of
23 this section shall be entitled to notice and an opportunity for a contested
24 case hearing under ORS chapter 183.

25 “**SECTION 7.** Section 7, chapter 736, Oregon Laws 2003, is amended to
26 read:

27 “**Sec. 7.** The [*Department of Human Services*] **Oregon Health Authority**
28 may audit the records of any hospital in this state to determine compliance
29 with sections 1 to 9, [*of this 2003 Act*] **chapter 736, Oregon Laws 2003, and**
30 **section 1 of this 2013 Act.** The [*department*] **authority** may audit records

1 at any time for a period of five years following the date an assessment is due
2 to be reported and paid under section 2, [of this 2003 Act] **chapter 736,**
3 **Oregon Laws 2003, and section 1 of this 2013 Act.**

4 **“SECTION 8.** Section 8, chapter 736, Oregon Laws 2003, as amended by
5 section 1, chapter 757, Oregon Laws 2005, is amended to read:

6 **“Sec. 8.** Amounts collected by the [*Department of Human Services*]
7 **Oregon Health Authority** from the assessments imposed under section 2,
8 chapter 736, Oregon Laws 2003, **and section 1 of this 2013 Act** shall be de-
9 posited in the Hospital Quality Assurance Fund established under section
10 9, chapter 736, Oregon Laws 2003.

11 **“SECTION 9.** Section 9, chapter 736, Oregon Laws 2003, as amended by
12 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
13 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
14 Oregon Laws 2009, and section 59, chapter 602, Oregon Laws 2011, is
15 amended to read:

16 **“Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the
17 State Treasury, separate and distinct from the General Fund. Interest earned
18 by the Hospital Quality Assurance Fund shall be credited to the Hospital
19 Quality Assurance Fund.

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

22 **“(a)** Paying refunds due under section 6, chapter 736, Oregon Laws 2003,
23 [*and*] **as amended by section 6 of this 2013 Act;**

24 **“(b)** Funding services under ORS [*414.705 to 414.750*] **414.631, 414.651 and**
25 **414.688 to 414.750**, including but not limited to[:]

26 “[*a*] increasing reimbursement rates for inpatient and outpatient hospi-
27 tal services under ORS [*414.705 to 414.750*] **414.631, 414.651 and 414.688 to**
28 **414.750;**

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

1 “[(c) *Maintaining or increasing the number of persons described in ORS*
2 *414.025 (3)(s) who are enrolled in the medical assistance program; and]*”

3 “[(d)] **(c) Making payments described in section 2 (3)(a)(C), chapter**
4 **736, Oregon Laws 2003, as amended by section 3 of this 2013 Act; and**

5 **“(d) Paying administrative costs incurred by the authority to administer**
6 **the assessments imposed under section 2, chapter 736, Oregon Laws 2003, and**
7 **section 1 of this 2013 Act.**

8 “(3) Except for assessments imposed pursuant to section 2 (3)(b), chapter
9 736, Oregon Laws 2003, the authority may not use moneys from the Hospital
10 Quality Assurance Fund to supplant, directly or indirectly, other moneys
11 made available to fund services described in subsection (2) of this section.

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

15 “**Sec. 10.** Sections 1 to 9, chapter 736, Oregon Laws 2003, **and section 1**
16 **(2) of this 2013 Act** apply to net revenues earned by hospitals during a pe-
17 riod beginning October 1, [2009] **2013**, and ending the earlier of September
18 30, [2013] **2015**, or the date on which the assessment no longer qualifies for
19 federal [*matching funds*] **financial participation** under Title XIX **or XXI**
20 of the Social Security Act.

21 “**SECTION 11.** Section 12, chapter 736, Oregon Laws 2003, as amended
22 by section 4, chapter 780, Oregon Laws 2007, and section 21, chapter 867,
23 Oregon Laws 2009, is amended to read:

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

26 “**SECTION 12.** Section 13, chapter 736, Oregon Laws 2003, as amended
27 by section 5, chapter 780, Oregon Laws 2007, and section 22, chapter 867,
28 Oregon Laws 2009, is amended to read:

29 “**Sec. 13.** Nothing in the repeal of sections 1 to 9, chapter 736, Oregon
30 Laws 2003, **and section 1 of this 2013 Act** by section 12, chapter 736, Oregon

1 Laws 2003, **as amended by section 11 of this 2013 Act**, affects the imposi-
2 tion and collection of a hospital assessment under sections 1 to 9, chapter
3 736, Oregon Laws 2003, **or section 1 of this 2013 Act** for a calendar quarter
4 beginning before September 30, [2013] **2015**.

5 **“SECTION 13.** ORS 414.746 is amended to read:

6 “414.746. (1) The Oregon Health Authority [*shall*] **may** establish an ad-
7 justment to the payments made to a coordinated care organization defined
8 in section 9, chapter 867, Oregon Laws 2009.

9 “(2) The contracts entered into between the authority and coordinated
10 care organizations [*must*] **may** include provisions that ensure that the ad-
11 justment to the payments established under subsection (1) of this section is
12 distributed by the coordinated care organizations to hospitals located in
13 Oregon that receive Medicare reimbursement based upon diagnostic related
14 groups.

15 “[*(3) The adjustment to the capitation rate paid to coordinated care organ-*
16 *izations shall be established in an amount consistent with the legislatively*
17 *adopted budget and the aggregate assessment imposed pursuant to section 2,*
18 *chapter 736, Oregon Laws 2003.]*

19 **“SECTION 14.** ORS 414.746 is repealed.

20 **“SECTION 15.** (1) **The Director of the Oregon Health Authority shall**
21 **apply to the federal Centers for Medicare and Medicaid Services for**
22 **any approval necessary to secure federal financial participation in the**
23 **expenditures made with the assessment imposed under section 1 (2)**
24 **of this 2013 Act and in using the payment methodology described in**
25 **section 2 (3)(a)(C), chapter 736, Oregon Laws 2003, as amended by sec-**
26 **tion 3 of this 2013 Act.**

27 **“(2) The Director of the Oregon Health Authority shall immediately**
28 **notify the Legislative Counsel upon receipt of federal approval or dis-**
29 **approval under this section.**

30 **“SECTION 16.** (1) **Section 1 of this 2013 Act and the amendments to**

1 **ORS 414.746 and sections 1, 2, 3, 5, 6, 7, 8, 9, 10, 12 and 13, chapter 736,**
2 **Oregon Laws 2003, by sections 2 to 13 of this 2013 Act become operative**
3 **on the date that the Director of the Oregon Health Authority notifies**
4 **Legislative Counsel that the director received federal approval as de-**
5 **scribed in section 15 of this 2013 Act.**

6 **“(2) The repeal of ORS 414.746 by section 14 of this 2013 Act becomes**
7 **operative April 1, 2014.**

8 **“SECTION 17. This 2013 Act takes effect on the 91st day after the**
9 **date on which the 2013 regular session of the Seventy-seventh Legis-**
10 **lative Assembly adjourns sine die.”.**

11
