

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 3391 - A9**

79th Oregon Legislative Assembly – 2017 Regular Session  
 Legislative Fiscal Office

*Only Impacts on Original or Engrossed Versions are Considered Official*

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**Measure Description:**

Requires health benefit plan coverage of specified health care services, drugs, devices, products and procedures related to reproductive health.

**Government Unit(s) Affected:**

Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA)

**Summary of Expenditure Impact - Oregon Health Authority (OHA):**

	2017-19 Biennium	2019-21 Biennium
<b>General Fund</b>		
Personal Services	289,942	331,362
Services and Supplies	189,128	156,060
Special Payments		
PHD Providers	6,204,360	11,350,000
Post-Partum Coverage	3,437,000	4,680,000
CAWEM Savings	(38,000)	(52,000)
Enterprise-Wide Costs	113,505	0
<b>Total General Fund</b>	<b>\$10,195,935</b>	<b>\$16,465,422</b>
<b>Federal Funds</b>		
Special Payments		
Post-Partum Coverage	0	0
CAWEM Savings	(1,461,000)	(2,002,000)
Enterprise-Wide Costs	400,721	0
<b>Total Federal Funds</b>	<b>(\$1,060,279)</b>	<b>(\$2,002,000)</b>
<b>TOTAL FUNDS</b>		
1 Personal Services	289,942	331,362
2 Services and Supplies	189,128	156,060
Special Payments		
3 PHD Providers	6,204,360	11,350,000
4 Post-Partum Coverage	3,437,000	4,680,000
CAWEM Savings	(1,499,000)	(2,054,000)
5 Enterprise-Wide Costs	514,226	0
<b>TOTAL FUNDS</b>	<b>\$9,135,656</b>	<b>\$14,463,422</b>
Positions	2	2
FTE	1.76	2.00

**Analysis:**

House Bill 3391 appropriates an unspecified amount of General Fund to the Oregon Health Authority (OHA) to carryout provisions of this bill. The bill requires health benefit plan coverage of specified health care services, drugs, devices, products and procedures related to reproductive health without cost sharing, including Well-Women visits, screenings and counseling for sexually transmitted infections, pregnancy related services, screening/counseling/intervention for tobacco use and domestic violence, breast-feeding counseling and supplies, breast cancer screening, contraceptive approved by the FDA, and voluntary sterilization. An insurer may offer to a religious employer a health benefit plan that does

not cover contraceptives or abortion, if the insurer notifies all employees who may be enrolled in the health benefit plan, in writing, of all the contraceptives the employer refuses to cover for religious reasons. The bill requires coverage of services by out-of-network provider without cost-sharing, when an in-network provider is not reasonably accessible or able to provide timely service.

The bill prohibits discrimination of an individual based on certain classes by a health benefit plan, medical assistance program or in accessing coverage of services described in the bill. The bill makes violation of nondiscrimination requirements an unlawful practice under the state public accommodations statute, granting civil rights protections for individuals that have been discriminated on the basis of perceived race, color, national origin, sex, sexual orientation, gender identity, age or disability.

In addition, the bill requires OHA to administer a program to reimburse the cost of services described in the bill for individuals who can become pregnant that would be eligible for Medicaid except for their immigration status. The bill requires OHA and DCBS to explore opportunities for federal funds for this program. OHA must report to the legislature on the program by September 15, 2018.

The -A9 amendment directs OHA to design a statewide program to provide access to abortion coverage for Oregon residents enrolled in health benefits plans that currently do not provide coverage. DCBS and OHA are directed to report to the Speaker, the President, and an interim legislative committee by November 1, 2017 on any actions taken towards this requirement. In addition, the -A9 amendment clarifies that health benefit plans are not required to cover abortions if the insurer offering the plan had excluded coverage in all its individual, small group and large group plans during the 2017 plan year. The -A9 amendment does not change the original fiscal determination.

#### Oregon Health Authority (OHA)

<sup>1</sup> To administer this program, operative January 1, 2018, to reimburse preventive reproductive health services, the Public Health Division (PHD) of the Oregon Health Authority (OHA) will need two additional positions to work with existing staff:

- One Operations & Policy Analyst 2 position to: (1) establish policies and protocols and ensure compliance with established administrative procedures and policies relevant to the program; (2) work with a network of over 50 providers, performing reviews for all agencies at least once every three years (reviews will be both onsite and through intermittent chart/protocol reviews for all participating agencies); (3) with new providers to ensure that these agencies create policies and protocols that are in compliance; (4) assist with OAR development, rules promulgation, and ensuring they remain updated; and (5) work closely with the program's Public Health Nurses.
- One Research Analyst 3 position to: (1) manage family planning claims data, including the ability to restructure large and complex data sets; (2) provide support to providers regarding claims submission and reimbursement policies and technical details; (3) work with Reproductive Health Program's third party claims processing vendor to troubleshoot problems and recommend changes to the claims system, as needed; (4) work in conjunction with fiscal staff to reconcile claims data with financial payments to providers; and (5) assist current staff in developing and implementing evaluation plan.

<sup>2</sup> Services and Supplies includes \$120,000 for program expansion services and supplies which will cover claims processing, data collection and analysis for cost-effectiveness of services covered.

<sup>3</sup> Based on the Reproductive Health Program estimates that approximately 22,873 clients will be served in the 2017-19 biennium, the program projects that about \$6,204,360 in special payments made by PHD to providers.

<sup>4</sup> Based on the projection that expanding postpartum care would impact an average of 478 Citizen/Alien-Waived Emergent Medical (CAWEM) program clients for the first sixty days after delivery, the budget impact of expanding postpartum care to 60 days after delivery is estimated at \$3,437,000 General Fund for the 2017-19 biennium. Assuming these costs will be offset by savings realized by fewer unintended pregnancies, and using data from the Oregon Health Plan, OHA estimates 1,146 CAWEM clients ages 14-44 would take advantage of contraceptive services. According to research by the

Guttmacher Institute this would equate to a reduction in 293 births per biennium and a budget savings of \$1,499,000 Total Funds (\$38,000 General Fund and \$1,461,000 Federal Funds).

Postpartum OB visits, within 56 days for vaginal birth, or 90 days for a cesarean birth, qualifies for matching Federal Funds at the current Title 21 enhanced match rate of 97.47%, if the service is paid as part of a global payment to the OB for all labor and delivery services, because this service bundle is a covered benefit while the client was in the CAWEM Prenatal program. All other care provided to the former CAWEM Prenatal clients, within 60 days of the birth of a covered child do not qualify for Federal matching funds, because the services are considered non-emergency services.

<sup>5</sup> These costs include funds to pay information technology vendors for system modifications.

In addition to the costs outlined above, there may be a fiscal impact to Oregon Educators Benefit Board (OEBB). Although Public Employees Benefits Board (PEBB) and OEBB have never been under the jurisdiction of the Oregon Insurance Division and are not obligated to comply with regulatory changes unless specifically called out in legislation, both Boards have always worked cooperatively with the Oregon Insurance Division to implement regulatory changes. It is important to note that the Boards will most likely implement these changes as they have historically.

Mercer, a consultant for PEBB reports that this bill would have no fiscal impact on PEBB through higher medical plan premium rates because the majority of services identified in the bill are currently covered without member cost share.

However, Moda, the largest health insurer for OEBB, projects that additional coverage requirements for reproductive health services beyond what is already covered could potentially increase premium rates 0.19% for the medical plans OEBB administers. Assuming this applies to all OEBB medical plans, passage of this bill could result in a fiscal impact of \$2,207,350 for the 2019-21 biennium). The premium increase is caused by the removal of OEBB cost sharing on certain non-ACA services identified in the bill, including diagnostic mammographies and STD screenings. This removal of cost sharing accounted for 7% of the premium increase. Note that OEBB and PEBB are tasked with keeping premium at a 3.4% or lower increase. If OEBB adopts the addition of benefits recommended by the Oregon Insurance Division, the Board could reduce other benefits or increase in cost share to meet the 3.4% cap.

#### Department of Consumer and Business Services (DCBS)

The fiscal impact of this bill on DCBS is anticipated to be minimal. The bill allows DCBS to grant waivers from the requirements in the bill to the minimum extent necessary to continue to receive federal funds. The bill requires DCBS to report to the legislature by September 15, 2019 on insurers' compliance with this bill, including the issuance of civil penalties to enforce compliance. DCBS must also collaborate with OHA to explore federal funding options for the reimbursement program. DCBS would utilize existing staff and resources to accomplish the requirements of the bill.