

DRAFT

SUMMARY

Expands health benefit plan coverage of childbirth and pregnancy-related health care expenses. Specifies reimbursement of services provided by freestanding birthing centers. Requires Department of Consumer and Business Services to report to interim committees of Legislative Assembly related to health on implementation of expanded benefits.

Requires that specified services related to pregnancy and childbirth be covered by state medical assistance program. Requires Oregon Health Authority to prescribe uniform payment methodology for freestanding birthing centers.

A BILL FOR AN ACT

Relating to reimbursement of health care services; creating new provisions; and amending ORS 414.065, 442.392 and 743A.080.

Whereas a pregnant person has the right to choose the place to give birth and the provider of maternity care; and

Whereas a pregnant person must not be required to give birth in a hospital in order for the costs to be reimbursed by an insurer; and

Whereas freestanding birthing centers are not treated fairly with respect to compensation for their services, compared to the compensation paid to hospitals; now, therefore,

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

SECTION 1. ORS 743A.080 is amended to read:

743A.080. (1) As used in this section[,]:

(a) “Childbirth” means labor, delivery and perinatal care.

(b) “Freestanding birthing center” has the meaning given that term in ORS 442.015.

(c) “Pregnancy care” means *[the]* **maternal and prenatal** care necessary to support a healthy pregnancy *[and care related to labor and delivery]*.

(2) *[All]* A health benefit *[plans]* **plan** as defined in ORS 743B.005 must provide payment or reimbursement for expenses associated with pregnancy care, *[and childbirth. Benefits provided under this section shall be extended to all enrollees, enrolled spouses and enrolled dependents]* **childbirth and postpartum care for both the mother and child for 60 days following delivery.**

(3) The coverage described in subsection (2) of this section must:

(a) Reimburse a service provided:

(A) In a hospital, freestanding birthing center, clinic or patient’s home; and

(B) By a licensed health care practitioner acting within the scope of the practitioner’s license, including but not limited to the following:

(i) A direct entry midwife licensed under ORS 687.420;

(ii) A nurse practitioner licensed under ORS 678.375 to 678.390 and certified as a nurse midwife; and

(iii) A naturopathic physician, licensed under ORS 685.100, who has a certificate of special competency in natural childbirth; and

(b) Pay a fee to a freestanding birthing center using a methodology that takes into account the actual costs of the facility.

(4) The fee described in subsection (3)(b) of this section must be based on good faith negotiations between the insurer and the freestanding birthing center.

(5) The Department of Consumer and Business Services may require insurers to report data necessary for the department to evaluate an insurer’s compliance with this section.

SECTION 2. Section 3 of this 2021 Act is added to and made a part of ORS chapter 414.

SECTION 3. (1) As used in this section:

(a) “Childbirth” means labor, delivery and perinatal care.

1 **(b) “Freestanding birthing center” has the meaning given that term**
2 **in ORS 442.015.**

3 **(c) “Pregnancy care” means maternal and prenatal care necessary**
4 **to support a healthy pregnancy.**

5 **(2) The types and extent of health care and services to be provided**
6 **in medical assistance, as determined by the Oregon Health Authority**
7 **under ORS 414.065, must include coverage for the expenses associated**
8 **with pregnancy care, childbirth and postpartum care for both the**
9 **mother and child for 60 days following delivery.**

10 **(3) The health care and services described in subsection (2) of this**
11 **section include services provided:**

12 **(a) In a hospital, freestanding birthing center, clinic or patient’s**
13 **home; and**

14 **(b) By a licensed health care practitioner acting within the scope**
15 **of the practitioner’s license, including but not limited to the following:**

16 **(A) A direct entry midwife licensed under ORS 687.420;**

17 **(B) A nurse practitioner licensed under ORS 678.375 to 678.390 and**
18 **certified as a nurse midwife; and**

19 **(C) A naturopathic physician, licensed under ORS 685.100, who has**
20 **a certificate of special competency in natural childbirth.**

21 **SECTION 4.** ORS 414.065 is amended to read:

22 414.065. (1)(a) With respect to health care and services to be provided in
23 medical assistance during any period, the Oregon Health Authority shall
24 determine, subject to such revisions as it may make from time to time and
25 subject to legislative funding and paragraph (b) of this subsection:

26 **(A) The types and extent of health care and services to be provided to**
27 **each eligible group of recipients of medical assistance.**

28 **(B) Standards, including outcome and quality measures, to be observed in**
29 **the provision of health care and services.**

30 **(C) The number of days of health care and services toward the cost of**
31 **which medical assistance funds will be expended in the care of any person.**

1 (D) Reasonable fees, charges, daily rates and global payments for meeting
2 the costs of providing health services to an applicant or recipient.

3 (E) Reasonable fees for professional medical and dental services which
4 may be based on usual and customary fees in the locality for similar services.

5 (F) The amount and application of any copayment or other similar cost-
6 sharing payment that the authority may require a recipient to pay toward
7 the cost of health care or services.

8 (b) The authority shall adopt rules establishing timelines for payment of
9 health services under paragraph (a) of this subsection.

10 **(c) The types and extent of health care and services to be provided**
11 **in medical assistance, as determined by the authority under paragraph**
12 **(a)(A) of this subsection, and the fees, charges, daily rates and global**
13 **payments determined by the authority under paragraph (a)(D) and (E)**
14 **of this subsection, must be consistent with ORS 413.234, 414.432,**
15 **414.598, 414.710, 414.712, 414.728, 414.743, 414.760, 414.762, 414.764, 414.766**
16 **and 414.770 and section 3 of this 2021 Act and any other provision of**
17 **law requiring the authority or a coordinated care organization to re-**
18 **imburse the cost of a specific type of care.**

19 (2) The types and extent of health care and services and the amounts to
20 be paid in meeting the costs thereof, as determined and fixed by the author-
21 ity and within the limits of funds available therefor, shall be the total
22 available for medical assistance and payments for such medical assistance
23 shall be the total amounts from medical assistance funds available to pro-
24 viders of health care and services in meeting the costs thereof.

25 (3) Except for payments under a cost-sharing plan, payments made by the
26 authority for medical assistance shall constitute payment in full for all
27 health care and services for which such payments of medical assistance were
28 made.

29 (4) Notwithstanding subsections (1) and (2) of this section, the Depart-
30 ment of Human Services shall be responsible for determining the payment for
31 Medicaid-funded long term care services and for contracting with the pro-

viders of long term care services.

(5) In determining a global budget for a coordinated care organization:

(a) The allocation of the payment, the risk and any cost savings shall be determined by the governing body of the organization;

(b) The authority shall consider the community health assessment conducted by the organization in accordance with ORS 414.577 and reviewed annually, and the organization's health care costs; and

(c) The authority shall take into account the organization's provision of innovative, nontraditional health services.

(6) Under the supervision of the Governor, the authority may work with the Centers for Medicare and Medicaid Services to develop, in addition to global budgets, payment streams:

(a) To support improved delivery of health care to recipients of medical assistance; and

(b) That are funded by coordinated care organizations, counties or other entities other than the state whose contributions qualify for federal matching funds under Title XIX or XXI of the Social Security Act.

SECTION 5. ORS 442.392 is amended to read:

442.392. (1) The Oregon Health Authority shall prescribe by rule a uniform payment methodology for hospital, **freestanding birthing center as defined in ORS 442.015** and ambulatory surgical center services that:

(a) Incorporates the most recent Medicare payment methodologies established by the Centers for Medicare and Medicaid Services, or similar payment methodologies, for hospital, **freestanding birthing center** and ambulatory surgical center services;

(b) Includes payment methodologies for services and equipment that are not fully addressed by Medicare payment methodologies; and

(c) Allows for the use of alternative payment methodologies, including but not limited to pay-for-performance, bundled payments and capitation.

(2) In developing the payment methodologies described in this section, the authority shall convene and be advised by a work group consisting of pro-

1 viders, insurers and consumers of the types of health care services that are
2 subject to the methodologies.

3 **SECTION 6.** No later than September 15, 2025, the Department of
4 Consumer and Business Services shall report to the interim commit-
5 tees of the Legislative Assembly related to health, in the manner
6 provided in ORS 192.245, on the implementation of the amendments to
7 ORS 743A.080 by section 1 of this 2021 Act.

8 **SECTION 7.** The Oregon Health Authority shall prescribe a pay-
9 ment methodology for freestanding birthing center services, in ac-
10 cordance with ORS 442.392, no later than June 30, 2022.

11 **SECTION 8.** The amendments to ORS 743A.080 by section 1 of this
12 2021 Act apply to policies or certificates of insurance issued, renewed
13 or extended on or after January 1, 2023.

14 **SECTION 9.** Section 3 of this 2021 Act and the amendments to ORS
15 414.065 by section 4 of this 2021 Act become operative on July 1, 2022.