LC 3860
2019 Regular Session
2/22/19 (LHF/ps)

D R A F T

SUMMARY

Establishes Health Care Cost Growth Benchmark program to control the growth of health care expenditures in this state. Establishes Health Care Cost Growth Benchmark Implementation Committee to recommend to Oregon Health Policy Board specifications for program. Requires board to adopt final plan and implement program to extent of board's statutory authority. Requires report, by November 15, 2020, to Legislative Assembly on plan and legislative changes needed to fully implement plan.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to containing the cost of health care; and declaring an emergency.

Whereas there is a need to enhance transparency and accountability in health care costs; and

Whereas health care spending in Oregon has historically outpaced inflation and Oregon's economic growth; and

Whereas it is in the best interest of Oregonians to recognize that public and private health care spending needs to drive greater access to high quality care at lower cost; and

Whereas population health and prices can be measured and reported and used to pay for the value rather than the volume of health care; and

Whereas the state is committed to reducing the total cost of health care for all Oregonians; and

Whereas the establishment, monitoring and implementation of an annual health care cost growth benchmark is an appropriate means to achieve the goal of improved health care quality at reduced cost; and

Whereas with the passage of House Bill 3650 (2011) and Senate Bill 1580

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.

(2012), Oregon established cost containment and payment reform for the state medical assistance program; and

Whereas with the 2017 renewal by the Centers for Medicare and Medicaid Services of Oregon's demonstration project under section 1115 of the Social Security Act, Oregon has committed to a target cap in the rate of cost growth for the medical assistance program until at least June 30, 2022; and

Whereas target caps for the rate of cost growth are currently in place for the health care coverage of one-third of Oregonians; and

Whereas the Task Force on Health Care Cost Review, created by Senate Bill 419 (2017), recognized the importance of aligning cost growth containment efforts with work being done to promote better health quality and health outcomes, including Senate Bill 440 (2015), which initiated the development of a strategic plan to collect and use health outcome and quality data, Senate Bill 231 (2015) and Senate Bill 934 (2017), which established minimum targets for medical expenditures on primary care, and House Bill 4005 (2018), which established price reporting requirements for prescription drugs; and

Whereas the task force also recognized the value of and need for establishing an annual health care cost growth benchmark for all payers and provider types, measuring and reporting on the total cost of health care in Oregon and analyzing and reporting performance relative to established cost growth target caps; now, therefore,

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

SECTION 1. As used in this section and section 2 of this 2019 Act:

(1) "Health care cost growth" means the annual percentage change in total health expenditures in this state.

(2) "Health care cost growth benchmark" means the target percentage for health care cost growth.

(3) "Health care entity" means a person that reports data under:

(a) ORS 243.135;

(b) ORS 243.866;

(c) ORS 413.032;

(d) ORS 413.234;

(e) ORS 414.651;

(f) ORS 414.661;

(g) ORS 442.464 and 442.466; or

(h) ORS 743.010.

(4) "Health insurance" has the meaning given that term in ORS 731.162.

(5) "Net cost of private health insurance" means the difference between health insurance premiums received by an insurer and the claims paid by the health insurance.

(6) "Payer" means a person who pays the cost of health care, whether directly, by paying premiums or cost-sharing for health insurance or by paying a third party administrator or other entity to pay claims for the reimbursement of health care costs.

(7) "Provider" means an individual, organization or business entity that provides health care items or services.

(8) "Total health expenditures" means all health care expenditures in this state by public and private sources, including:

(a) All payments by insurers to providers on claims for reimbursement of medical costs;

(b) All payments to providers other than payments described in paragraph (a) of this subsection;

(c) All cost-sharing paid by residents of this state, including but not limited to copayments, deductibles and coinsurance; and

(d) The net cost of private health insurance.

SECTION 2. (1) The Legislative Assembly intends to establish a health care cost growth benchmark, for all providers and payers, to:

(a) Support accountability for the total cost of health care across all payers, both public and private;

(b) Build on the state's existing efforts around health care payment

reform and containment of health care costs; and

(c) Ensure the long-term affordability and financial sustainability of the health care system in this state.

(2) The Health Care Cost Growth Benchmark program is established under the direction of the Oregon Health Policy Board. The program shall establish a health care cost growth benchmark for increases in total health expenditures and shall review and modify the benchmark on an annual basis.

(3) The health care cost growth benchmark must:

(a) Promote a predictable and sustainable rate of growth for total health expenditures that ensures that the annual rate of increase in total health expenditures does not exceed the rate of increase of this state's economy or of the personal income of residents of this state;

(b) Apply to all providers, payers and health care entities in the health care system in this state;

(c) Use established economic indicators; and

(d) Be measurable on a per capita basis, statewide basis and health care entity basis.

(4) The program shall establish a methodology for calculating the annual percentage change in total health expenditures:

(a) Statewide;

(b) For each health care entity, adjusted by the health status of the patients of the health care entity; and

(c) Per capita.

(5) The program shall establish requirements for health care entities to report data and other information necessary to calculate the percentage changes in total health expenditures under subsection (4) of this section.

(6) Annually, the program shall:

(a) Hold public hearings on the growth in total health expenditures in relation to the health care cost growth in the previous calendar

year;

(b) Publish a report on health care costs and spending trends that includes:

(A) Factors impacting costs and spending; and

(B) Recommendations for strategies to improve the efficiency of the health care system; and

(c) For health care entities for which the percentage change in total health expenditures in the previous calendar year exceeded the health care cost growth benchmark:

(A) Analyze the cause for exceeding the health care cost growth benchmark; and

(B) If appropriate, require the health care entity to undertake a performance improvement action plan.

SECTION 3. (1) The Health Care Cost Growth Benchmark Implementation Committee is established under the direction of the Oregon Health Policy Board.

(2) The membership of the committee consists of the following:

(a) The Director of the Oregon Health Authority or the director's designee;

(b) A designee of the Director of the Department of Consumer and Business Services;

(c) An expert in health care financing and administration;

(d) An expert in health economics;

(e) At least one insurance broker; and

(f) No more than 13 members appointed by the Governor to represent:

(A) The Health Insurance Exchange Advisory Committee created under ORS 741.004;

(B) The division of the Oregon Department of Administrative Services that serves as the department's office of economic analysis;

(C) The Oregon Health Leadership Council;

(D) Health care systems or urban hospitals;

(E) Rural hospitals;

(F) Consumers;

(G) Members of the business community that purchase health insurance for their employees;

(H) Licensed and certified health care professionals; and

(I) The insurance industry.

(3) The committee shall design an implementation plan, in accordance with section 4 of this 2019 Act, for the Health Care Cost Growth Benchmark program established in section 2 of this 2019 Act.

(4) A majority of the members of the committee constitutes a quorum for the transaction of business.

(5) Official action by the committee requires the approval of a majority of the members of the committee.

(6) The committee shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective.

(8) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.

(9) The committee may adopt rules necessary for the operation of the committee.

(10) The Oregon Health Authority shall provide staff support to the committee.

(11) Members of the committee are not entitled to compensation or reimbursement for expenses and serve as volunteers on the committee.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of the duties of the committee and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members

of the committee consider necessary to perform their duties.

SECTION 4. (1) As used in this section:

(a) "Health care cost growth" means the annual percentage change in total health expenditures in this state.

(b) "Health care cost growth benchmark" means the target percentage for health care cost growth.

(c) "Health care entity" means a person that reports data under:

(A) ORS 243.135;

(B) ORS 243.866;

(C) ORS 413.032;

(D) ORS 413.234;

(E) ORS 414.651;

(F) ORS 414.661;

(G) ORS 442.464 and 442.466;

(H) ORS 743.010; or

(I) Section 2, chapter 575, Oregon Laws 2015.

(d) "Health insurance" has the meaning given that term in ORS 731.162.

(e) "Net cost of private health insurance" means the difference between health insurance premiums received by an insurer and the claims paid by the health insurance.

(f) "Payer" means a person who pays the cost of health care, whether directly, by paying premiums or cost-sharing for health insurance or by paying a third party administrator or other entity to pay claims for the reimbursement of health care costs.

(g) "Provider" means an individual, organization or business entity that provides health care items or services.

(h) "Total health expenditures" means all health care expenditures in this state by public and private sources, including:

(A) All payments by insurers to providers on claims for reimbursement of medical costs;

(B) All payments to providers other than payments described in subparagraph (A) of this paragraph;

(C) All cost-sharing paid by residents of this state, including but not limited to copayments, deductibles and coinsurance; and

(D) The net cost of private health insurance.

(2) The Health Care Cost Growth Benchmark Implementation Committee, in designing the implementation plan for the Health Care Cost Growth Benchmark program, shall:

(a) Recommend the governance structure for the program.

(b) Recommend a methodology to establish the health care cost growth benchmark and the economic indicators to be used in establishing the benchmark.

(c) Establish the initial benchmark and specify the frequency and manner in which the benchmark should be reevaluated and updated.

(d) Identify the data that health care entities shall report for the program to be able to:

(A) Measure the benchmark;

(B) Validate the benchmark; and

(C) Identify the health care cost growth of a health care entity and of providers that are part of the health care entity.

(e)(A) Determine the technical assistance and support necessary to support health care entities working to remain at or below the health care cost growth benchmark; and

(B) Identify opportunities to leverage existing public and private financial resources, or alternative funding models, to provide the technical assistance and support.

(f) Recommend approaches for measuring quality of care that:

(A) Account for patient health status; and

(B) Align with the outcome and quality measures adopted by the Health Plan Quality Metrics Committee.

(g) Identify opportunities for lowering costs, improving the quality

of care and improving the efficiency of the health care system by using innovative payment models for all payers, including payment models that do not use a per-claim basis for payments.

(h) Recommend a system for identifying:

(A) Unjustified variations in prices or in health care cost growth; and

(B) The factors that contribute to the unjustified variations.

(i) Identify health care entities, in addition to entities listed in subsection (1)(c) of this section, that should be required to report.

(j) Recommend accountability and enforcement processes, which may be phased in over time, including:

(A) Measures to ensure compliance with reporting requirements;

(B) Procedures for imposing a performance improvement action plan or other escalating enforcement actions when a health care entity fails to remain at or below the benchmark; and

(C) Measures to enforce compliance with the health care cost growth benchmark in programs administered by the Oregon Health Authority and the Department of Consumer and Business Services, including but not limited to:

(i) The medical assistance program;

(ii) Health benefit plans offered by the Public Employees' Benefit Board;

(iii) Health benefit plans offered by the Oregon Educators Benefit Board;

(iv) Insurance offered through the health insurance exchange; and

(v) The review of health insurance premium rates by the department.

(k) Make recommendations regarding the reporting of data collected by the Health Care Cost Growth Benchmark program, including recommendations for:

(A) Publication of an annual health care cost trends report and

analyses on the statewide health care cost growth benchmark, total health expenditures and spending by each type of health care entity;

(B) Elements to be included in the annual health care cost trends report, such as:

(i) Services provided, sorted by provider organization;

(ii) Services paid for, sorted by the type of payer;

(iii) Variations in cost trends, sorted by category of service; and

(iv) Affordability of health care, based on prices, insurance premiums and types of payment;

(C) Frequency and format of public hearings conducted in accordance with section 2 (6)(a) of this 2019 Act;

(D) Publication of recommendations for policies and strategies for achieving the health care cost growth benchmark;

(E) Publication of performance improvement action plans and other enforcement actions; and

(F) Reporting to the Legislative Assembly.

(L) Establish an implementation timeline and the phases of implementation that may include the establishment of the initial health care cost growth benchmark under paragraph (c) of this subsection in 2021, with reporting, enforcement and penalties beginning in 2022.

SECTION 5. (1) No later than September 15, 2020, the Health Care Cost Growth Benchmark Implementation Committee shall report to the Oregon Health Policy Board for approval, and to the interim committees of the Legislative Assembly related to health, the committee's recommendations under section 4 of this 2019 Act.

(2) The board shall adopt an implementation plan for the Health Care Cost Growth Benchmark program and report the plan to the Legislative Assembly, in accordance with ORS 192.245, no later than November 15, 2020.

(3) The board shall carry out the implementation plan to the extent permitted by the board's statutory authority. The report to the Legis-

lative Assembly under subsection (2) of this section must include any legislative changes necessary to provide the statutory authority for the board to fully implement the plan.

SECTION 6. Sections 3, 4 and 5 of this 2019 Act are repealed on January 2, 2022.

SECTION 7. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
