

B-Engrossed
House Bill 3397

Ordered by the House June 19
Including House Amendments dated April 16 and June 19

Sponsored by Representative HAYDEN; Representatives KENY-GUYER, PRUSAK

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.

[Requires] **Permits** Oregon Health Authority to *[enter]* **take steps necessary to ensure that authority pays lowest cost for prescription drugs purchased for recipients of medical assistance, including by entering** into agreement with third party to be purchasing agent *[to assist authority in purchasing prescription drugs for medical assistance recipients]*. Establishes Oregon Medicaid Purchasing Cooperative to advise authority, purchasing agent and, with respect to purchasing drugs, Practitioner-Managed Prescription Drug Plan. Requires authority to develop and issue request for proposals for purchasing agent and to be advised by cooperative in selecting purchasing agent.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to prescription drugs; creating new provisions; amending ORS 414.326; and declaring an
3 emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS**
6 **chapter 414.**

7 **SECTION 2. (1) As used in this section, "lowest cost" means the lowest net cost after**
8 **rebates are subtracted.**

9 **(2) The Oregon Health Authority may take steps necessary, including entering into a**
10 **memorandum of understanding or other agreement with a third party to assist the authority**
11 **by acting as a purchasing agent, to ensure that the authority pays the lowest cost for any**
12 **prescription drug purchased for recipients of medical assistance in this state including:**

13 **(a) Members of coordinated care organizations;**

14 **(b) Recipients of medical assistance whose costs are paid on a fee-for-service basis; and**

15 **(c) Elderly or disabled recipients of medical assistance who are served by the Department**
16 **of Human Services.**

17 **(3) The authority shall report to the Legislative Assembly each year in the manner pro-**
18 **vided in ORS 192.245:**

19 **(a) On the activities of the Pharmacy and Therapeutics Committee established in ORS**
20 **414.353 and the Oregon Medicaid Purchasing Cooperative established in section 3 of this 2019**
21 **Act;**

22 **(b) On rebates that were collected and the savings to the state attributable to the re-**
23 **bates; and**

24 **(c) The results of the alignment of the preferred drug list for medical assistance recipi-**

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 ents enrolled in coordinated care organizations with the preferred drug list for medical as-
2 sistance recipients who are not enrolled in coordinated care organizations.

3 **SECTION 3.** (1) The Oregon Medicaid Purchasing Cooperative is established as an advi-
4 sory committee to the Oregon Health Authority, the purchasing agent described in section
5 2 of this 2019 Act and the Pharmacy and Therapeutics Committee established under ORS
6 414.353, for the purpose of:

7 (a) Advising the Pharmacy and Therapeutics Committee and the authority regarding the
8 Practitioner-Managed Prescription Drug Plan;

9 (b) Identifying opportunities to lower costs in purchasing prescription drugs;

10 (c) Identifying opportunities to leverage rebates; and

11 (d) Taking other approaches to achieve the best value for this state by purchasing pre-
12 scription drugs at the lowest cost.

13 (2) The cooperative consists of the following members appointed by the Director of the
14 Oregon Health Authority:

15 (a) A representative of each coordinated care organization that contracts with the au-
16 thority;

17 (b) An individual representing the authority;

18 (c) An individual from an organization that advocates on behalf of medical assistance
19 recipients; and

20 (d) One or more individuals representing health care providers other than hospitals.

21 (3) The term of office of each member of the cooperative is four years, but a member
22 serves at the pleasure of the director. Before the expiration of the term of a member, the
23 director shall appoint a successor. A member is eligible for reappointment. If there is a va-
24 cancy for any cause, the director shall make an appointment to become immediately effective
25 for the unexpired term.

26 (4) The cooperative shall select one of its members as chairperson and another as vice
27 chairperson, for such terms and with duties and powers necessary for the performance of
28 the functions of the offices as the cooperative determines.

29 (5) A majority of the members of the cooperative constitutes a quorum for the trans-
30 action of business.

31 (6) The members of the cooperative are not entitled to compensation or reimbursement
32 for expenses and serve as volunteers on the cooperative.

33 (7) The authority shall provide staff support to the cooperative and shall be responsible
34 for responding to requests for public records regarding the cooperative.

35 (8) The costs of the cooperative shall be paid from funds in the Oregon Health Authority
36 Fund established in ORS 413.101.

37 (9) The cooperative is a public body for purposes of ORS 192.311 to 192.478 and 192.610 to
38 192.690, and all of the activities of the cooperative must be recorded and the records retained
39 for at least seven years. However, the cooperative may meet in executive session for the
40 purposes described in ORS 414.356.

41 **SECTION 4.** (1) The Director of the Oregon Health Authority shall appoint all members
42 of the Oregon Medicaid Purchasing Cooperative established in section 3 of this 2019 Act no
43 later than January 1, 2020.

44 (2) The Oregon Health Authority shall take all necessary steps to carry out section 2 of
45 this 2019 Act no later than January 1, 2021.

1 **(3) The cooperative shall advise the authority in the selection of the purchasing agent**
2 **described in section 2 of this 2019 Act.**

3 **SECTION 5.** ORS 414.326 is amended to read:

4 414.326. (1) The Oregon Health Authority, **with the assistance of the purchasing agent de-**
5 **scribed in section 2 of this 2019 Act**, shall negotiate and enter into agreements with pharmaceu-
6 tical manufacturers for supplemental rebates that are in addition to the discount required under
7 federal law to participate in the medical assistance program.

8 (2) The authority **and the purchasing agent** may participate in a multistate prescription drug
9 purchasing pool for the purpose of negotiating supplemental rebates.

10 (3) ORS 414.325 and 414.334 apply to prescription drugs purchased for the medical assistance
11 program under this section.

12 **SECTION 6.** **In addition to and not in lieu of any other appropriation, there is appropri-**
13 **ated to the Oregon Health Authority, for the biennium beginning July 1, 2019, out of the**
14 **General Fund, the amount of \$111,128, which may be expended for carrying out sections 2 to**
15 **4 of this 2019 Act and the amendments to ORS 414.326 by section 5 of this 2019 Act.**

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