

House Bill 3429

Sponsored by Representative BOSHART DAVIS

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 **as introduced**.

Requires Oregon Health Authority to take specified steps to ensure foster child's continued access to health care when foster child relocates to area not served by foster child's coordinated care organization.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care for foster children; creating new provisions; amending ORS 414.631 and
3 414.635; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 414.**

6 **SECTION 2. (1) As used in this section, "foster child" has the meaning given that term
7 in ORS 418.200.**

8 **(2) If a foster child who is enrolled in a coordinated care organization relocates to a ge-
9 ographic area that is not served by the coordinated care organization, no later than three
10 days after the date the foster child arrives at the new location, the Oregon Health Authority
11 shall:**

12 **(a) Enroll the foster child in the coordinated care organization that serves the area
13 where the foster child has relocated and ensure the immediate transfer of the foster child's
14 health records from the previous coordinated care organization to the new coordinated care
15 organization;**

16 **(b) Provide the foster child with an authorization to obtain care from the foster child's
17 choice of providers from providers who are part of a coordinated care organization or pro-
18 viders who are not part of a coordinated care organization but who accept reimbursement
19 from the medical assistance program as payment in full; or**

20 **(c) Authorize the foster child to continue to receive care from the foster child's providers
21 that are part of the previous coordinated care organization until the foster child is enrolled
22 in the new coordinated care organization and the foster child's medical records have been
23 transferred to the new coordinated care organization.**

24 **(3) If the authority fails to comply with subsection (2) of this section, the authority must
25 reimburse any provider, at the provider's usual and customary fee, for the following care
26 provided to the foster child in the new location:**

27 **(a) Services for an emergency medical condition, as defined in 42 U.S.C. 1396b(v)(3); and**

28 **(b) The continuation of a course of medical treatment, including a drug regimen, and
29 counseling that began prior to the foster child's relocation.**

30 **(4) The authority shall collaborate with the Department of Human Services to adopt rules**

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 **and protocols that ensure compliance with the provisions of this section.**

2 **SECTION 3.** ORS 414.631 is amended to read:

3 414.631. (1) Except as provided in subsections (2), (3), (4) and (5) of this section and ORS 414.632
4 (2), a person who is eligible for or receiving health services must be enrolled in a coordinated care
5 organization to receive the health services for which the person is eligible. For purposes of this
6 subsection, Medicaid-funded long term care services do not constitute health services.

7 (2) Subsections (1) and (4) of this section do not apply to:

8 (a) A person who is a noncitizen and who is eligible only for labor and delivery services and
9 emergency treatment services;

10 (b) A person who is an American Indian and Alaskan Native beneficiary;

11 (c) An individual described in ORS 414.632 (2) who is dually eligible for Medicare and Medicaid
12 and enrolled in a program of all-inclusive care for the elderly; and

13 (d) A person whom the Oregon Health Authority may by rule exempt from the mandatory en-
14 rollment requirement of subsection (1) of this section, including but not limited to:

15 (A) A person who is also eligible for Medicare;

16 (B) A woman in her third trimester of pregnancy at the time of enrollment;

17 (C) A person under 19 years of age who has been placed in adoptive or foster care out of state;

18 (D) A person under 18 years of age who is medically fragile and who has special health care
19 needs;

20 (E) A person receiving services under the Medically Involved Home-Care Program created by
21 ORS 417.345 (1); *and*

22 (F) A person with major medical coverage; **and**

23 **(G) A foster child, as necessary to comply with section 2 of this 2019 Act.**

24 (3) Subsection (1) of this section does not apply to a person who resides in an area that is not
25 served by a coordinated care organization or where the organization's provider network is inade-
26 quate.

27 (4) In any area that is not served by a coordinated care organization but is served by a prepaid
28 managed care health services organization, a person must enroll with the prepaid managed care
29 health services organization to receive any of the health services offered by the prepaid managed
30 care health services organization.

31 (5) As used in this section, "American Indian and Alaskan Native beneficiary" means:

32 (a) A member of a federally recognized Indian tribe;

33 (b) An individual who resides in an urban center and:

34 (A) Is a member of a tribe, band or other organized group of Indians, including those tribes,
35 bands or groups whose recognition was terminated since 1940 and those recognized now or in the
36 future by the state in which the member resides, or who is a descendant in the first or second de-
37 gree of such a member;

38 (B) Is an Eskimo or Aleut or other Alaskan Native; or

39 (C) Is determined to be an Indian under regulations promulgated by the United States Secretary
40 of the Interior;

41 (c) A person who is considered by the United States Secretary of the Interior to be an Indian
42 for any purpose; or

43 (d) An individual who is considered by the United States Secretary of Health and Human Ser-
44 vices to be an Indian for purposes of eligibility for Indian health care services, including as a
45 California Indian, Eskimo, Aleut or other Alaskan Native.

SECTION 4. ORS 414.635 is amended to read:

414.635. (1) The Oregon Health Authority shall adopt by rule safeguards for members enrolled in coordinated care organizations that protect against underutilization of services and inappropriate denials of services. In addition to any other consumer rights and responsibilities established by law, each member:

(a) Must be encouraged to be an active partner in directing the member's health care and services and not a passive recipient of care.

(b) Must be educated about the coordinated care approach being used in the community and how to navigate the coordinated health care system.

(c) Must have access to advocates, including qualified peer wellness specialists, peer support specialists, personal health navigators, and qualified community health workers who are part of the member's care team to provide assistance that is culturally and linguistically appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services.

(d) Shall be encouraged within all aspects of the integrated and coordinated health care delivery system to use wellness and prevention resources and to make healthy lifestyle choices.

(e) Shall be encouraged to work with the member's care team, including providers and community resources appropriate to the member's needs as a whole person.

(2) The authority shall establish and maintain an enrollment process for individuals who are dually eligible for Medicare and Medicaid that promotes continuity of care and that allows the member to disenroll from a coordinated care organization that fails to promptly provide adequate services and:

(a) To enroll in another coordinated care organization of the member's choice; or

(b) If another organization is not available, to receive Medicare-covered services on a fee-for-service basis.

(3) Members and their providers and coordinated care organizations have the right to appeal decisions about care and services through the authority, **including but not limited to a failure of the authority to comply with section 2 of this 2019 Act**, in an expedited manner and in accordance with the contested case procedures in ORS chapter 183.

(4) A health care entity may not unreasonably refuse to contract with an organization seeking to form a coordinated care organization if the participation of the entity is necessary for the organization to qualify as a coordinated care organization.

(5) A health care entity may refuse to contract with a coordinated care organization if the reimbursement established for a service provided by the entity under the contract is below the reasonable cost to the entity for providing the service.

(6) A health care entity that unreasonably refuses to contract with a coordinated care organization may not receive fee-for-service reimbursement from the authority for services that are available through a coordinated care organization either directly or by contract.

(7)(a) The authority shall adopt by rule a process for resolving disputes involving:

(A) A health care entity's refusal to contract with a coordinated care organization under subsections (4) and (5) of this section.

(B) The termination, extension or renewal of a health care entity's contract with a coordinated care organization.

(b) The processes adopted under this subsection must include the use of an independent third party arbitrator.

1 (8) A coordinated care organization may not unreasonably refuse to contract with a licensed
2 health care provider.

3 (9) The authority shall:

4 (a) Monitor and enforce consumer rights and protections within the Oregon Integrated and Co-
5 ordinated Health Care Delivery System and ensure a consistent response to complaints of violations
6 of consumer rights or protections.

7 (b) Monitor and report on the statewide health care expenditures and recommend actions ap-
8 propriate and necessary to contain the growth in health care costs incurred by all sectors of the
9 system.

10 **SECTION 5. This 2019 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
12 **on its passage.**

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