

SENATE AMENDMENTS TO SENATE BILL 889

By JOINT COMMITTEE ON WAYS AND MEANS

June 11

- 1 On page 2 of the printed bill, delete lines 6 through 45 and delete pages 3 through 5.
- 2 On page 6, delete lines 1 through 42 and insert:
- 3 **“SECTION 1. As used in this section and section 2 of this 2019 Act:**
- 4 **“(1) ‘Health care’ means items, services and supplies intended to improve or maintain**
- 5 **human function or treat or ameliorate pain, disease, condition or injury, including but not**
- 6 **limited to the following types of services:**
- 7 **“(a) Medical;**
- 8 **“(b) Behavioral;**
- 9 **“(c) Substance use disorder;**
- 10 **“(d) Mental health;**
- 11 **“(e) Surgical;**
- 12 **“(f) Optometric;**
- 13 **“(g) Dental;**
- 14 **“(h) Podiatric;**
- 15 **“(i) Chiropractic;**
- 16 **“(j) Psychiatric;**
- 17 **“(k) Pharmaceutical;**
- 18 **“(L) Therapeutic;**
- 19 **“(m) Preventive;**
- 20 **“(n) Rehabilitative;**
- 21 **“(o) Supportive; or**
- 22 **“(p) Geriatric.**
- 23 **“(2) ‘Health care cost growth’ means the annual percentage change in total health**
- 24 **expenditures in this state.**
- 25 **“(3) ‘Health care cost growth benchmark’ means the target percentage for health care**
- 26 **cost growth.**
- 27 **“(4) ‘Health care entity’ means a payer or a provider.**
- 28 **“(5) ‘Health insurance’ has the meaning given that term in ORS 731.162.**
- 29 **“(6) ‘Net cost of private health insurance’ means the difference between health insurance**
- 30 **premiums received by a payer and the claims for the cost of health care paid by the payer**
- 31 **under a policy or certificate of health insurance.**
- 32 **“(7) ‘Payer’ means:**
- 33 **“(a) An insurer offering a policy or certificate of health insurance or a health benefit plan**
- 34 **as defined in ORS 743B.005;**
- 35 **“(b) A publicly funded health care program, including but not limited to Medicaid, Medi-**

1 care and the State Children’s Health Insurance Program;

2 “(c) A third party administrator; and

3 “(d) Any other public or private entity, other than an individual, that pays or reimburses
4 the cost for the provision of health care.

5 “(8) ‘Provider’ means an individual, organization or business entity that provides health
6 care.

7 “(9) ‘Total health expenditures’ means all health care expenditures in this state by public
8 and private sources, including:

9 “(a) All payments on providers’ claims for reimbursement of the cost of health care
10 provided;

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

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

15 “(d) The net cost of private health insurance.

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

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

20 “(b) Build on the state’s existing efforts around health care payment reform and con-
21 tainment of health care costs; and

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

24 “(2) The Health Care Cost Growth Benchmark program is established. The program shall
25 be administered by the Oregon Health Authority in collaboration with the Department of
26 Consumer and Business Services, subject to the oversight of the Oregon Health Policy Board.
27 The program shall establish a health care cost growth benchmark for increases in total
28 health expenditures and shall review and modify the benchmark on a periodic basis.

29 “(3) The health care cost growth benchmark must:

30 “(a) Promote a predictable and sustainable rate of growth for total health expenditures
31 as measured by an economic indicator adopted by the board, such as the rate of increase in
32 this state’s economy or of the personal income of residents of this state;

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

34 “(c) Use established economic indicators; and

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

36 “(4) The program shall establish a methodology for calculating health care cost growth:

37 “(a) Statewide;

38 “(b) For each provider and payer, taking into account the health status of the patients
39 of the provider or the beneficiary of the payer; and

40 “(c) Per capita.

41 “(5) The program shall establish requirements for providers and payers to report data
42 and other information necessary to calculate health care cost growth under subsection (4)
43 of this section.

44 “(6) Annually, the program shall:

45 “(a) Hold public hearings on the growth in total health expenditures in relation to the

1 health care cost growth in the previous calendar year;

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

3 “(A) Factors impacting costs and spending; and

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

5 and

6 “(c) For providers and payers for which health care cost growth in the previous calendar
7 year exceeded the health care cost growth benchmark:

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

9 “(B) If appropriate, require the provider or payer to undertake a performance improve-
10 ment action plan.

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

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

14 “(a) The Director of the Oregon Health Authority or the director’s designee;

15 “(b) The Director of the Department of Consumer and Business Services or the director’s
16 designee;

17 “(c) An expert in health care financing and administration appointed by the Director of
18 the Oregon Health Authority;

19 “(d) An expert in health economics appointed by the Director of the Oregon Health Au-
20 thority;

21 “(e) At least one insurance broker appointed by the Director of the Department of Con-
22 sumer and Business Services; and

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

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

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

27 “(C) The Oregon Health Leadership Council;

28 “(D) Health care systems or urban hospitals;

29 “(E) Rural hospitals;

30 “(F) Consumers;

31 “(G) Members of the business community that purchase health insurance for their em-
32 ployees;

33 “(H) Licensed and certified health care professionals; and

34 “(I) The insurance industry.

35 “(3) The committee shall design an implementation plan, in accordance with section 4 of
36 this 2019 Act, for the Health Care Cost Growth Benchmark program established in section
37 2 of this 2019 Act.

38 “(4) A majority of the members of the committee constitutes a quorum for the trans-
39 action of business.

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

42 “(6) The Governor shall select one member to serve as chairperson.

43 “(7) If there is a vacancy for any cause, the appointing authority shall make an appoint-
44 ment to become immediately effective.

45 “(8) The committee shall meet at times and places specified by the call of the chairperson

1 or of a majority of the members of the committee.

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

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

4 “(11)(a) Members of the committee, other than members representing consumers, are
5 not entitled to compensation or reimbursement for expenses and serve as volunteers on the
6 committee.

7 “(b) Members representing consumers are not entitled to compensation but may be re-
8 imbursement from funds available to the authority for actual and necessary travel and other
9 expenses incurred by the members in the performance of official duties in the manner and
10 amount provided in ORS 292.495.

11 “(12) All agencies of state government, as defined in ORS 174.111, are directed to assist
12 the committee in the performance of the duties of the committee and, to the extent per-
13 mitted by laws relating to confidentiality, to furnish information and advice that the mem-
14 bers of the committee consider necessary to perform their duties.

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

16 “(a) ‘Health care’ has the meaning given that term in section 1 of this 2019 Act.

17 “(b) ‘Health care cost growth’ has the meaning given that term in section 1 of this 2019
18 Act.

19 “(c) ‘Health care cost growth benchmark’ has the meaning given that term in section 1
20 of this 2019 Act.

21 “(d) ‘Health care entity’ has the meaning given that term in section 1 of this 2019 Act.

22 “(e) ‘Health insurance’ has the meaning given that term in ORS 731.162.

23 “(f) ‘Payer’ has the meaning given that term in section 1 of this 2019 Act.

24 “(g) ‘Provider’ has the meaning given that term in section 1 of this 2019 Act.

25 “(h) ‘Total health expenditures’ has the meaning given that term in section 1 of this 2019
26 Act.

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

29 “(a) Recommend the governance structure for the program.

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

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

34 “(d) Identify the data that providers and payers shall report for the program to be able
35 to:

36 “(A) Measure the benchmark;

37 “(B) Validate the benchmark; and

38 “(C) Identify the health care cost growth of an institutional provider or provider group
39 and of providers that are part of the institutional provider or provider group.

40 “(e)(A) Determine the technical assistance and support necessary to support providers
41 and payers working to remain at or below the health care cost growth benchmark; and

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

44 “(f) Recommend approaches for measuring the quality of care that account for patient
45 health status.

1 “(g) Seek to align the approaches for measuring the quality of care under paragraph (f)
2 of this subsection with the outcome and quality measures adopted by the Health Plan Quality
3 Metrics Committee.

4 “(h) Identify opportunities for lowering costs, improving the quality of care and improv-
5 ing the efficiency of the health care system by using innovative payment models for all
6 payers, including payment models that do not use a per-claim basis for payments.

7 “(i) Recommend a system for identifying:

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

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

10 “(j) Identify providers and payers that are required to report.

11 “(k) Recommend accountability and enforcement processes, which may be phased in over
12 time, including:

13 “(A) Measures to ensure compliance with reporting requirements;

14 “(B) Procedures for imposing a performance improvement action plan or other escalating
15 enforcement actions when a provider or payer fails to remain at or below the benchmark;
16 and

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

20 “(i) The medical assistance program;

21 “(ii) Medical, dental, vision and other health care benefit plans offered by the Public
22 Employees’ Benefit Board;

23 “(iii) Medical, dental, vision and other health care benefit plans offered by the Oregon
24 Educators Benefit Board;

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

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

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

29 “(A) Publication of an annual health care cost trends report and analyses on the state-
30 wide health care cost growth benchmark, total health expenditures and spending by each
31 type of health care entity;

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

33 “(i) Services provided, sorted by provider organization;

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

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

36 “(iv) Affordability of health care, based on prices, insurance premiums and types of pay-
37 ment;

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

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

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

44 “(F) Reporting to the Legislative Assembly.

45 “(m) Establish an implementation timeline and the phases of implementation that may

1 include the establishment of the initial health care cost growth benchmark under paragraph
2 (c) of this subsection in 2021, with reporting, enforcement and penalties beginning in 2022.

3 **“SECTION 5. (1) No later than September 15, 2020, the Health Care Cost Growth**
4 **Benchmark Implementation Committee shall report to the Oregon Health Policy Board for**
5 **approval, and to the interim committees of the Legislative Assembly related to health, the**
6 **committee’s recommendations under section 4 of this 2019 Act. The report shall include a**
7 **legislative concept for carrying out the provisions of section 4 (2)(k)(B) of this 2019 Act re-**
8 **garding the imposition of performance improvement action plans or other escalating**
9 **enforcement actions when a provider or payer fails to remain at or below the health care**
10 **cost growth benchmark.**

11 **“(2) The Oregon Health Authority and the Department of Consumer and Business Ser-**
12 **vices shall implement the recommendations of the committee, except for the provisions in**
13 **the legislative concept described in subsection (1) of this section, upon approval by the**
14 **board.”.**

15 After line 43, insert:

16 **“SECTION 7. In addition to and not in lieu of any other appropriation, there is appro-**
17 **priated to the Oregon Health Authority, for the biennium beginning July 1, 2019, out of the**
18 **General Fund, the amount of \$993,797, which may be expended for carrying out sections 1 to**
19 **4 of this 2019 Act.”.**

20 In line 44, delete “7” and insert “8”.

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