

House Bill 4060

Sponsored by Representatives WALLAN, EVANS; Representative HELT, Senator FINDLEY (Pre-session filed.)

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, upon receipt of federal approval, to assess fee on emergency medical services providers and use fee to reimburse costs of emergency medical services transports.

Authorizes Medicaid supplemental reimbursements to be paid in addition to reimbursements paid by coordinated care organizations for emergency medical services transports.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to emergency medical services providers; creating new provisions; amending ORS 413.234;
3 and declaring an emergency.

4 Whereas emergency medical services providers play an essential role in serving this state's
5 medical assistance recipients; and

6 Whereas in 2016, the Centers for Medicare and Medicaid Services denied a request by the state
7 to approve the Medicaid supplemental reimbursement for private and contracted emergency medical
8 services providers; and

9 Whereas private and contracted emergency medical services providers must be ensured equal
10 access to funding for service that is available from the federal government; now, therefore,

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

12 **SECTION 1. Upon receipt of the Centers for Medicare and Medicaid Services' approval**
13 **of the Oregon Health Authority's request described in section 9 of this 2020 Act to carry out**
14 **sections 2 to 5 of this 2020 Act, the authority shall administer a program to reimburse**
15 **emergency medical services providers, as defined in section 2 of this 2020 Act, in accordance**
16 **with sections 2 to 5 of this 2020 Act.**

17 **SECTION 2. As used in sections 2 to 5 of this 2020 Act:**

18 (1) "Emergency medical services" means the services provided by an emergency medical
19 services provider to an individual experiencing a medical emergency in order to:

20 (a) Assess, treat and stabilize the individual's medical condition; or

21 (b) Prepare and transport the individual to a medical facility.

22 (2) "Emergency medical services provider" means a nonfederal or nonpublic entity that:

23 (a) Employs individuals who are licensed by the Oregon Health Authority under ORS
24 chapter 682 to provide emergency medical services; and

25 (b) Contracts with a local government pursuant to a plan described in ORS 682.062.

26 (3) "Emergency medical services transport" means an emergency medical services
27 provider's evaluation of an individual experiencing a medical emergency and the transporta-
28 tion of the individual to the nearest medical facility capable of meeting the needs of the in-
29 dividual.

30 (4) "Federal financial participation" has the meaning given that term in ORS 413.234.

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 (5)(a) “Gross receipts” means gross payments received as patient care revenue for
 2 emergency medical services transports, determined on a cash basis of accounting.

3 (b) “Gross receipts” does not include Medicaid supplemental reimbursement pursuant to
 4 ORS 413.234.

5 (6) “Local government” has the meaning given that term in ORS 174.116.

6 **SECTION 3.** (1) On July 1 of each year, the Oregon Health Authority shall assess a
 7 quality assurance fee on each emergency medical services transport provided by an emer-
 8 gency medical services provider licensed in this state. The fee shall be in an amount equal
 9 to five percent of the projected total gross receipts for the following 12-month period divided
 10 by the projected number of emergency medical services transports in the same 12-month
 11 period. The projections must be based on the data reported under section 5 of this 2020 Act.

12 (2) The authority shall prescribe the manner and due dates for the assessment and col-
 13 lection of quality assurance fees under this section.

14 (3) The quality assurance fees collected by the authority may not exceed the amounts
 15 allowed by federal law.

16 (4) The authority may modify or make adjustments to any methodology, fee amount or
 17 other provision specified in this section and section 4 of this 2020 Act to the extent necessary
 18 to meet the requirements of federal law or to ensure federal financial participation in the
 19 costs of emergency medical services transports reimbursed by the authority.

20 (5) Interest shall be assessed on quality assurance fees not paid by the date due at 10
 21 percent per annum beginning on the day after the date the payment was due.

22 (6) In the event that any payment of a quality assurance fee is more than 60 days over-
 23 due, the authority shall assess a penalty equal to the interest charged under subsection (5)
 24 of this section for each month for which the payment is more than 60 days overdue.

25 (7) The authority may deduct the amount of any unpaid fee, interest or penalty assessed
 26 under this section from any fee-for-service medical assistance reimbursement owed to the
 27 emergency medical services provider until the full amount of the fee, interest or penalty is
 28 recovered. The authority may not make a deduction pursuant to this subsection until after
 29 the authority gives the emergency medical services provider written notification. The au-
 30 thority may permit the amount owed to be deducted over a period of time that takes into
 31 account the financial condition of the emergency medical services provider.

32 (8) All quality assurance fees, interest and penalties collected under this section shall be
 33 deposited into the Emergency Medical Services Fund established in section 6 of this 2020 Act.

34 (9) The authority may waive a portion or all of the interest or penalties, or both, assessed
 35 under subsections (5) and (6) of this section if the authority determines that the imposition
 36 of the full amount of the quality assurance fee in accordance with the due dates established
 37 under subsection (2) of this section is likely to impose an undue financial hardship on the
 38 emergency medical services provider. The waiver must be conditioned on the emergency
 39 medical services provider’s agreement to pay the quality assurance fees on an alternative
 40 schedule developed by the authority.

41 (10) In the event of a merger, acquisition or similar transaction involving an emergency
 42 medical services provider that has outstanding quality assurance fees, interest or penalties
 43 due, the successor emergency medical services provider is responsible for paying to the au-
 44 thority the full amount of outstanding quality assurance fees, interest and penalties that are
 45 due on the effective date of the merger, acquisition or transaction.

1 **SECTION 4. (1)(a)** The Oregon Health Authority shall establish the reimbursement to be
 2 paid to an emergency medical services provider for an emergency medical services transport
 3 in an amount that is equal to the federal financial participation received by the authority for
 4 the cost of the emergency medical services transport.

5 (b) The reimbursement established under paragraph (a) of this subsection may not exceed
 6 the emergency medical services provider’s actual costs for the emergency medical services
 7 transport, determined in accordance with standards established by the authority, less the
 8 amount of reimbursement that the emergency medical services provider is eligible to receive
 9 from all public and private sources.

10 (2) The authority shall modify the method for calculating or paying the reimbursement
 11 under subsection (1) of this section if the modification is necessary to ensure that the
 12 expenditures for emergency medical services transports qualify for federal financial partic-
 13 ipation.

14 (3) The authority may retain up to 15 percent of the fees collected under section 3 of this
 15 2020 Act:

16 (a) To provide grants to coordinated care organizations to be used to pay for innovative
 17 ambulance programs; and

18 (b) To administer sections 2 to 5 of this 2020 Act.

19 (4) The reimbursement established under subsection (1) of this section shall be paid only
 20 from the following sources:

21 (a) The Emergency Medical Services Fund established under section 6 of this 2020 Act;
 22 and

23 (b) Federal financial participation in the costs of emergency medical services transports.

24 (5) The moneys described in subsection (3) of this section may not be used to supplant
 25 existing funding for emergency medical services transports.

26 (6) The reimbursement established under subsection (1) of this section shall be required
 27 and payable only for periods in which emergency medical services providers are required to
 28 pay quality assurance fees.

29 (7) The authority shall administer sections 2 to 5 of this 2020 Act in a manner that is
 30 consistent with:

31 (a) The goals and policies of and the quality and access measures established in ORS
 32 413.234 and 413.235; and

33 (b) Federal law, including the terms and conditions of agreements with the Centers for
 34 Medicare and Medicaid Services.

35 **SECTION 5. (1)** The Oregon Health Authority shall prescribe the form and manner for
 36 an emergency medical services provider to report the data necessary to administer sections
 37 3 and 4 of this 2020 Act.

38 (2) The authority may require a certification by each emergency medical services pro-
 39 vider under penalty of perjury of the truth of the data reported under this section. An
 40 emergency medical services provider shall report the data required by this section within five
 41 days after the date upon which the report is due. After sending written notice to an emer-
 42 gency medical services provider, the authority may impose a penalty of \$100 per day against
 43 an emergency medical services provider for every day that the report is overdue. Any funds
 44 resulting from a penalty imposed under this subsection shall be deposited in the Emergency
 45 Medical Services Fund established in section 6 of this 2020 Act.

1 (3) An emergency medical services provider shall report to the authority the number of
2 emergency medical services transports it provided in each 12-month period, by payer type.

3 (4) An emergency medical services provider shall report to the authority its gross re-
4 cepts for each 12-month period.

5 **SECTION 6.** (1) The Emergency Medical Services Fund is established in the State Treas-
6 ury, separate and distinct from the General Fund. The Emergency Medical Services Fund
7 consists of moneys collected by the Oregon Health Authority under sections 3 and 5 of this
8 2020 Act. Moneys in the fund are continuously appropriated to the authority for the purpose
9 of:

10 (a) Enhancing federal financial participation, as defined in section 2 of this 2020 Act, in
11 the costs of providing emergency medical services transports, as defined in section 2 of this
12 2020 Act, to medical assistance recipients;

13 (b) Supporting quality improvement efforts by emergency medical services providers, as
14 defined in section 2 of this 2020 Act, consistent with the quality and access measures adopted
15 by the authority in ORS 413.234 and 413.235;

16 (c) Paying the expenses of the authority in administering sections 2 to 5 of this 2020 Act;
17 and

18 (d) Funding medical assistance for residents of this state.

19 (2) Interest earned by the fund shall be credited to the fund.

20 **SECTION 7.** (1) Sections 3 and 4 of this 2020 Act are in addition to and not in lieu of the
21 provisions of ORS 413.234 and 413.235.

22 (2) The reimbursement established under section 4 of this 2020 Act also applies to the
23 reimbursement of emergency medical services providers, as defined in section 2 of this 2020
24 Act, by coordinated care organizations, as defined in ORS 414.025.

25 **SECTION 8.** ORS 413.234 is amended to read:

26 413.234. (1) As used in ORS 413.234 and 413.235:

27 (a) "Emergency medical services" means the services provided by emergency medical services
28 providers to an individual experiencing a medical emergency in order to:

29 (A) Assess, treat and stabilize the individual's medical condition; or

30 (B) Prepare and transport the individual by ground to a medical facility.

31 (b) "Emergency medical services provider" or "provider" means an entity that[:]

32 [(A)] employs individuals who are licensed by the Oregon Health Authority under ORS chapter
33 682 to provide emergency medical services[:]; and

34 [(B)(i)] **that** is owned or operated by a local government, a state agency or a federally recog-
35 nized Indian tribe.[: or]

36 [(ii)] *Contracts with a local government pursuant to a plan described in ORS 682.062.*]

37 (c) "Federal financial participation" means the portion of medical assistance expenditures for
38 emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid
39 Services in accordance with the state plan for medical assistance.

40 (d) "Local government" has the meaning given that term in ORS 174.116.

41 (2) Upon request, an emergency medical services provider that has entered into a provider
42 agreement with the authority **or a contract with a coordinated care organization** is eligible to
43 receive Medicaid supplemental reimbursement from the authority **or the coordinated care organ-**
44 **ization** for the cost of providing emergency medical services to a medical assistance recipient. The
45 Medicaid supplemental reimbursement shall be added to the payment **by the authority or the co-**

1 **ordinated care organization** for the emergency medical services [*established by the authority in*
2 *accordance with ORS 414.065*].

3 (3)(a) Except as provided in paragraph (b) of this subsection, the Medicaid supplemental re-
4 imbursement paid to an emergency medical services provider shall be equal to the amount of federal
5 financial participation received by the authority for the provider's cost for the emergency medical
6 services.

7 (b) The Medicaid supplemental reimbursement paid to a provider under this section may not
8 exceed the provider's actual costs for the emergency medical services, determined in accordance
9 with standards established by the authority, less the amount of reimbursement that the provider is
10 eligible to receive from all **public and private** sources[, *including the payment amount for emergency*
11 *medical services established by the authority in accordance with ORS 414.065*].

12 (4) An emergency medical services provider shall make readily available to the authority doc-
13 umentation, data and certifications, as prescribed by the authority, necessary to establish that the
14 emergency medical services expenditures qualify for federal financial participation and to calculate
15 the amount of Medicaid supplemental reimbursement that is due.

16 (5)(a) Except as provided in paragraph (b) of this subsection, the authority shall modify the
17 method for calculating or paying the Medicaid supplemental reimbursement if modification is nec-
18 cessary to ensure that emergency medical services expenditures qualify for federal financial partic-
19 ipation.

20 (b) This section does not authorize the payment of Medicaid supplemental reimbursement to an
21 emergency medical services provider if the provider has not entered into a provider agreement[,]
22 with the authority, **or a contract with a coordinated care organization**, to serve medical assist-
23 ance recipients.

24 (c) If the Centers for Medicare and Medicaid Services approves the implementation of this sec-
25 tion and later revokes its approval or expresses its intent to revoke or refuse to renew its approval,
26 the authority shall report the fact at the next convening of the interim or regular session commit-
27 tees of the Legislative Assembly related to health care.

28 (6) General Fund moneys may not be used to implement this section. As a condition of receiving
29 Medicaid supplemental reimbursement, an emergency medical services provider must enter into and
30 comply with an agreement with the authority to reimburse the authority for the costs of adminis-
31 tering this section.

32 [(7) *This section applies only to emergency medical services providers that are reimbursed by the*
33 *authority on a fee-for-service basis.*]

34 **SECTION 9. No later than June 1, 2020, the Oregon Health Authority shall request fed-**
35 **eral approval as necessary to carry out sections 2 to 5 of this 2020 Act.**

36 **SECTION 10. (1) Sections 2 to 5 of this 2020 Act become operative on the date that the**
37 **Centers for Medicare and Medicaid Services approves the request submitted in accordance**
38 **with section 9 of this 2020 Act to carry out sections 2 to 5 of this 2020 Act.**

39 **(2) The Oregon Health Authority shall immediately notify the Legislative Counsel if the**
40 **Centers for Medicare and Medicaid Services approves or disapproves, in whole or in part, the**
41 **request described in section 9 of this 2020 Act.**

42 **SECTION 11. This 2020 Act being necessary for the immediate preservation of the public**
43 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
44 **on its passage.**