

## ANALYSIS

### Item 15: Oregon Health Authority Oregon Essential Workforce Health Care Program

---

**Analyst:** Tom MacDonald

**Request:** Allocate a \$30,000,000 special purpose appropriation made to the Emergency Board and increase Federal Funds expenditure limitation by \$45,000,000 to implement the Oregon Essential Workforce Health Care Program.

**Analysis:** The Oregon Health Authority (OHA) requests allocation of a \$30 million special purpose appropriation established in HB 5006 (2021) to implement the Oregon Essential Workforce Health Care Program created in SB 800 (2021). OHA will use the \$30 million to match \$45 million in federal Medicaid revenue for one-time supplemental payments to participating long-term care employers. In turn, these payments will establish the reserves necessary for the employers to provide self-insured health care benefits to their employees.

The Centers for Medicare and Medicaid Services has approved a Medicaid State Plan Amendment request from OHA to authorize the use of Medicaid match for this purpose. In the first program year, four employers plan to participate in the program and 3,500 to 7,000 employees and their dependents are initially expected to enroll in coverage. Additional employers, which can include long-term care facilities, residential facilities, and in-home care agencies, may eventually choose to participate once the program is fully designed.

A core objective of the program is to improve employee recruitment and retention by mitigating the lack of affordable health care plans available to many workers in this industry. According to information shared as part of OHA's request, approximately 13% of Oregon's unionized long-term care employees are uninsured, 33% are enrolled in employer sponsored insurance, 33% are enrolled in the Oregon Health Plan (OHP), and the remainder receive health care through other means. The health plans currently offered by long-term care employers are bronze tier Affordable Care Act-compliant plans with high out of pocket expenses that are prohibitive for the industry's lower-income workers. The creation of a self-insured option seeded by the combined \$75 million in state and federal resources is expected to eliminate the higher costs employers pay for commercial insurance. The program is also expected to reduce per capita costs, assuming employees who currently choose not to pay for employer sponsored insurance enroll in the program, thereby improving the risk pool.

OHA is working with long-term care employers and the Service Employees International Union (SEIU) Local 503 to develop the program, which SB 800 authorizes by exempting long-term care employers who wish to do this as a group from Oregon's Insurance Code. The participating employers and SEIU Local 503 established the Oregon Essential Workforce Health Care Trust Fund on December 15, 2021 as the legal entity responsible for maintaining reserves and paying claims under the program. The Trust will consist of the supplemental payments employers receive from OHA and any employer/employee contributions required by collective bargaining or other agreements.

The Trust has hired an administrative manager, actuarial and benefits consultant, and legal counsel, and is in the process of selecting a claims administrator, pharmacy benefit manager, and a preferred

provider organization. The Agreement and Declaration of Trust prohibits any assets to revert to employers or SEIU Local 503. In the event of termination, all funds must be used for continuance of benefits and related costs until exhausted. The Trust plans for benefits to take effect October 1, 2022 and, at a minimum, be equivalent to the benefits offered under the Affordable Care Act silver plan. The Trust also intends to maximize enrollment by reducing or eliminating deductibles. To be eligible for coverage, employees must be active low-wage workers who are unable to afford their employer's existing plans or are ineligible for Medicaid.

Additional time will otherwise be needed to determine the financial and other key aspects of the program. In particular, a precise assessment of the required reserve level cannot be stated until the Trust makes this decision, which will be informed by its actuarial and benefits consultant. The estimated enrollment numbers will also likely remain broad until the benefits are designed and out of pocket costs confirmed. Existing federal and state policies related to Medicaid eligibility further create uncertainty with enrollment given the significant portion of the long-term care workforce currently enrolled in OHP. States will resume Medicaid redeterminations once the federal public health emergency ends, which could result in more employees seeking coverage through the program than expected. Conversely, the implementation of the "bridge plan" authorized in HB 4035 (2022) could extend OHP benefits for these same employees and restrain program demand.

Some of these unknowns are natural in the first year of any self-insured health care plan. Notably, OHA is responsible for ensuring the effective and transparent use of funding and establishing quality metrics through memorandums of understanding (MOU) with employers and the Trust, annual employer reports required by SB 800, and administrative rules, all of which remain under development. After the MOUs are signed, OHA plans to make the supplemental payments on a one-time basis to establish the self-insured reserves necessary for benefits to take effect by the October 1, 2022 target date.

Future budget requests are possible should OHA wish to enhance the program based on employer interest or other factors. The agency may also propose adjusting the Federal Funds expenditure limitation during a future budget rebalance action if the Federal Medical Assistance Percentage (FMAP) changes. The \$45 million match assumed in this request is based on a 60% average biennial FMAP, which will be higher if the enhanced FMAP available during the federal public health emergency is extended.

**Recommendation:** The Legislative Fiscal Office recommends that the Emergency Board allocate \$30,000,000 General Fund from the special purpose appropriation made to the Emergency Board to the Oregon Health Authority for the Oregon Essential Workforce Health Care Program, and increase Federal Funds expenditure limitation by \$45,000,000, to implement the program.

15  
Oregon Health Authority  
Heath

---

**Request:** Allocate \$30.0 million General Fund from a Special Purpose Appropriation established to increase the affordability of health insurance for the long-term care workforce and increase Federal Funds expenditure limitation by \$45.0 million to make Medicaid supplemental payments to long-term care providers in order to establish the Essential Healthcare Workforce Trust.

**Recommendation:** Approve the request.

**Discussion:** The Oregon Health Authority (OHA) seeks the allocation of a \$30.0 million Special Purpose Appropriation established in House Bill 5006 (2021) for the Oregon Essential Workforce Health Care Program, which was established by Senate Bill 800 (2021). The Department plans to use the \$30.0 million General Fund to leverage \$45.0 million in Medicaid matching funds in order to make one-time supplemental payments to employers in the long-term care, residential care, and in-home care industries. These payments, in turn, will be used to establish the reserves of a trust established to provide health insurance benefits to long-term care employees.

Senate Bill 800 directs OHA to establish the program to provide supplemental payments to eligible employers in the long-term care, residential care, and in-home care industries to provide health care benefits to their employees and lays out requirements for program participation. The goal of the Senate Bill 800 program is to address the unaffordability and lack of employer-sponsored health insurance coverage in these industries. While long-term care employers currently offer Affordable Care Act-compliant health care coverage, benefit plans are not affordable for many of their employees due to high out-of-pocket costs associated with the plans. As a result, the industry estimates only one-third of their employees are enrolled in employer sponsored insurance, another third are enrolled in the Oregon Health Plan, and approximately 13 percent are uninsured.

To receive Medicaid match for the \$30.0 million General Fund, OHA submitted a State Plan Amendment to the Center for Medicare and Medicaid Services (CMS) in October 2021, which CMS has approved. CMS also approved a methodology for OHA to use in making the supplemental payments reducing the likelihood of hitting the Medicaid upper payment limit, which is a limit on the amount of Medicaid reimbursement any one facility can receive in a given year. OHA estimated the amount of the federal match assuming a base 60 percent FMAP rate, but the actual rate for reimbursement will depend on the payment date and whether the Public Health Emergency-enhanced FMAP rate will be in effect at that date.

Senate Bill 800 creates an exception to Oregon's Insurance Code for a group of eligible employers in the long-term care industries to administer a self-insurance program to provide health insurance to their employees. The industries have collaborated with SEIU Local 503, which represents many of their direct care employees, to establish the Essential Workforce Health Benefit Trust to administer benefits for their workforce. OHA will make supplemental Medicaid payments to participating employers, who will then combine those payments as well as (eventually) employer premium payments and employee contributions to deposit into the trust. Any amounts in the trust can only be used to pay benefits for eligible employees or their dependents.

In terms of implementing the program, the trust was established December 15, 2021 and has hired a director and a benefit design consultant to continue designing the program. The trust is working on a request for proposals to hire a third-party administrator for claims, a pharmacy benefit manager, and a preferred provider organization. By the third quarter of 2022, the trust hopes to finalize benefit design and have employers opt-in to the program and to have employees enroll and have benefits begin by October 1, 2022.

Benefit design work is ongoing at the time of this analysis, but the intention is for employees to receive an enhanced benefit compared to what they currently receive. Current Affordable Care Act-compliant plans offered by industry employers are bronze tier plans with an actuarial value of 60 percent of the cost of care; these plans typically carry high deductibles that make it financially difficult for employees to access care. The trust hopes to be able to offer silver tier plans, with an actuarial value of 70 percent of the cost of care, as well as reduced or eliminated deductibles, to encourage employee utilization of care. The industry anticipates these better benefits will be affordable despite an anticipated increase in employee enrollment through a combination of reduced overhead costs from eliminating insurer profits, benefits designed more narrowly to meet the needs of the workforce, and an improved risk pool due to increased employee participation.

As of the date of this analysis, there remains uncertainty about the extent of employer participation and employee enrollment during the 2021-23 biennium. There are currently four nursing facility employers (out of a total of 37) planning to participate in the program, although more may decide to participate over time. Once employers elect to participate, the industry estimates, at current rates of employer participation, there will be between 3,500 and 7,000 enrollees, assuming all eligible employees enroll. Yet there is considerable uncertainty about how many employees will enroll. Participating employers will continue to offer other health insurance options. In terms of employees currently covered by Medicaid, the temporary pause on Medicaid redeterminations will expire when the federal government lifts the Public Health Emergency, encouraging enrollment into the program. On the other hand, the temporary bridge program authorized by House Bill 4035 (2022) may extend eligibility for those same employees, and OHA's Section 1115 waiver negotiations may soon result in continuous 2-year eligibility for those who are Medicaid eligible, potentially reducing enrollment in the program.

There are no requirements in statute for how much the trust must have set aside in reserves to begin operations. Ultimately, the Board of the trust must decide how much is needed to operate the trust in a financially prudent manner.

**Legal Reference:** Allocation of \$30,000,000 from the special purpose appropriation made to the Emergency Board by chapter 669, section 281 (1), Oregon Laws 2021, to supplement the appropriation made by chapter 668, section 1 (1), Oregon Laws 2021, for the Oregon Health Authority, Health Systems, Health Policy and Analytics, and Public Health for the 2021-23 biennium

Increase Federal Funds expenditure limitation established by chapter 668, section 5 (1), Oregon Laws 2021, for the Oregon Health Authority, Health Systems, Health Policy and Analytics, and Public Health by \$45,000,000 for the 2021-23 biennium.



Office of the Director

Kate Brown, Governor

Oregon  
**Health**  
Authority

500 Summer Street NE E20  
Salem, OR 97301  
Voice: 503-947-2340  
Fax: 503-947-2341  
TTY: 503-947-5080

May 2, 2022

Senator Peter Courtney, Co-Chair  
Representative Dan Rayfield, Co-Chair  
Joint Emergency Board  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301

Dear Co-Chairpersons:

### **Nature of the Request**

The Oregon Health Authority (OHA) requests \$30M General Fund, currently in a special purpose appropriation, to make the supplemental payments to eligible long term care employers participating in the Oregon Essential Workforce Health Care Program (“Program”), as directed by 2021 Regular Session Senate Bill 800 (SB 800). OHA also requests \$45M Federal Fund limitation for the Medicaid match.

### **Agency Action**

Pursuant to SB 800, OHA has received federal approval from the Centers for Medicare and Medicaid Services (CMS) to make the supplemental Medicaid payments via state plan amendment (SPA) TN-21-0022 in March 2022. The SPA has an effective date of October 1, 2021.

OHA did not seek these funds until CMS granted federal approval, as outlined in SB 800.

The Oregon Legislature passed SB 800 to improve retention and recruitment of the long-term care workforce by providing supplemental Medicaid payments to eligible employers to support more affordable health care benefits for their facility employees. Accordingly, SEIU Local 503 and Oregon nursing home employers established the Oregon Essential Workforce Health Care Trust (“Trust”) to obtain Program funds and provide health care benefits for the employees of the participating employers.

The Trust is currently designing the benefits plan(s) and anticipates delivering

Senator Peter Courtney, Co-Chair  
Representative Dan Rayfield, Co-Chair  
May 2, 2022  
Page 2 of 2

benefits to eligible employees in CY2022 Q4. Therefore, OHA desires to make payments in CY2022 Q3 to fund the reserves in advance of providing benefits.

**Action Requested**

The Oregon Health Authority (OHA) requests \$30M General Fund from the special purpose appropriation and \$45M Federal Funds limitation to make the supplemental payments to eligible employers participating in the Oregon Essential Workforce Health Care Program (“Program”), as directed by 2021 Regular Session Senate Bill 800.

**Legislation Affected**

Oregon Laws 2021, Chapter 668 1(1), increase General Fund \$30,000,000

Oregon Laws 2021, Chapter 668 5(1), increase Federal Funds \$45,000,000

Sincerely,



Patrick M. Allen  
Director

EC: Patrick Health, Department of Administrative Services  
George Naughton, Department of Administrative Services  
Tom MacDonald, Legislative Fiscal Office  
Amanda Beitel, Legislative Fiscal Office