

## ANALYSIS

### Item 16: Oregon Health Authority Behavioral Health Provider Rate Increase

**Analyst:** Tom MacDonald

**Request:** Allocate \$42,500,000 General Fund from a special purpose appropriation made to the Emergency Board and increase Federal Funds expenditure limitation by \$112,000,000 to increase behavioral health provider rates by an average of 30%.

**Analysis:** The Oregon Health Authority (OHA) requests allocation of a \$42.5 million special purpose appropriation (SPA) established in HB 5202 (2022), which would leverage \$112 million in federal match, to increase Medicaid rates for behavioral health providers by an average of 30%. In response to behavioral health provider closures, workforce shortages, and increased need for services, the legislature approved the SPA for the stated goal of improving access to services, maintaining provider networks, increasing wages, and retaining workers.

The rate increases will impact the fee-for-service (FFS) rates OHA pays directly to providers and the capitation rates paid to coordinated care organizations (CCOs) and require federal approval from the Centers for Medicare and Medicaid Services (CMS). As instructed in a budget note, OHA's proposal is for the FFS and CCO rate increases to take effect July 1, 2022 and January 1, 2023, respectively. OHA's request also identifies strategies for ensuring the CCO rate increases are passed to providers and discusses how the impact on provider stability and capacity can be measured, which are also required elements of the budget note.

FFS rates reimburse providers for services delivered to certain populations not enrolled in a CCO, as well as pay for adult mental health residential services, which are carved out of the CCO model. OHA's health equity goals and a recently published study on the behavioral health workforce guided OHA's evaluation of the specific FFS rates to target. The following table represents OHA's high-level summary of the proposed FFS rate increases in terms of 2021-23 costs (12 months) and percent increase:

FFS Rate Category	General Fund	Federal Funds	Total	% Rate Increase
Adult Mental Health Residential	\$8.3	\$15.6	\$23.9	30%
Substance Use Disorder Residential	\$0.3	\$0.7	\$1.0	32%
Other Mental Health Residential	\$2.5	\$4.3	\$6.8	21%
Children's Intensive Psychiatric Treatment	\$2.5	\$4.2	\$6.6	36%
Peer Delivered Services	\$0.6	\$0.9	\$1.5	42%
Culturally and Linguistically Specific Services	\$1.5	\$6.3	\$7.8	22%
Mental Health Outpatient	\$4.9	\$8.7	\$13.6	41%
SUD Non-Residential	\$1.5	\$7.3	\$8.8	26%
Mobile Crisis Services	\$1.9	\$14.1	\$15.9	25%
Applied Behavior Analysis	\$0.0	\$0.0	\$0.1	1%
<b>Total</b>	<b>\$24.0</b>	<b>\$62.1</b>	<b>\$86.1</b>	

In terms of overall cost, the FFS proposal prioritizes increasing adult and children’s mental health residential rates given the industry’s recent and continued risk of facility closures and staffing shortages. The proposal also focuses on increasing parity between mental health and substance use disorder payments; addressing wage challenges with children’s intensive psychiatric services; improving the experiences of those receiving culturally and linguistically specific services; and enhancing mobile crisis stabilization and peer delivered services.

The CCO increase works differently because the capitation rates they receive become part of a “global budget” each CCO decides how to use to reimburse their contractual providers, which may or may not be at the same level as the FFS rate schedule. OHA determined the CCO portion of the SPA by estimating the amount necessary for CCOs to reimburse behavioral health providers at no less than the proposed FFS rate schedule. OHA is considering multiple ways to ensure the behavioral health providers who contract with CCOs are reimbursed accordingly. One option, which would require CMS approval, is implementing a directed payment model that allows OHA to specify how an increase to CCO capitation rates can be used. Other options include establishing a minimum fee schedule that requires CCOs to pay no less than the FFS level and/or implementing a minimum medical loss ratio for behavioral health.

In terms of next steps, OHA is seeking feedback on its proposal from CCOs, behavioral health providers, and advocacy and consumer groups while following a required 90-day consultation process with tribal leaders for their consideration of the proposed changes. This timeline will allow OHA to submit a Medicaid State Plan Amendment request to CMS by September 30, 2022. Once CMS approves this request within its own 90-day window, OHA will be able to retroactively pay behavioral health providers the increased FFS rates effective to July 1, 2022. In other words, the FFS rate increase is on track for taking effect July 1, 2022, but increased payments might not begin until several months later. The CCO rate changes and associated rate policies will be established as part of CCOs’ next 12-month contracts effective January 1, 2023. The estimated roll-up costs in 2023-25 are \$82 million General Fund and \$141 million Federal Funds for both sets of rate increases.

**Recommendation:** The Legislative Fiscal Office recommends that the Emergency Board allocate \$42,500,000 General Fund from the special purpose appropriation made to the Emergency Board to the Oregon Health Authority, and increase Federal Funds expenditure limitation by \$112,000,000, to increase behavioral health provider rates by an average of 30%.

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Oregon Health Authority  
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**Request:** Allocate \$42.5 million General Fund from a Special Purpose Appropriation made to the Emergency Board and increase Federal Funds expenditure limitation by \$112.0 million to increase behavioral health provider rates by an average of 30 percent.

**Recommendation:** Approve the request.

**Discussion:** OHA is requesting the allocation of \$42.5 million General Fund from a Special Purpose Appropriation and an increase of \$112.0 million Federal Funds to increase behavioral health provider rates by an average of 30 percent. In response to the difficulties Oregon’s behavioral health providers have had with staffing and maintaining their operations, House Bill 5202 (2022) established a Special Purpose Appropriation of \$42.5 million General Fund for this purpose. The bill included a budget note instructing OHA to increase fee-for-service rates by July 1, 2022 and all other payment rates by January 1, 2023. OHA was instructed to develop ways to measure the extent to which rate increases to coordinated care organizations (CCOs) were passed through to providers and to develop metrics for measuring the impact of the increases on providers.

Currently, Oregon’s CCOs cover most Oregonians on Medicaid, with fee for service populations largely reflecting the newly enrolled Oregonians who are ineligible for Medicaid due to their federal immigration status, and tribal members. CCOs are responsible for providing almost all mental health services to Oregonians as part of their contracts with the exception of adult mental health residential services.

At a high level, OHA plans to use the funds as follows:

	<b>General Fund</b>	<b>Federal Funds</b>	<b>Total Funds</b>
CCOs	\$18.5	\$56.0	\$74.5
Fee for Service	\$24.0	\$56.0	\$80.0
<b>Total</b>	<b>\$42.5</b>	<b>\$112.0</b>	<b>\$154.5</b>

\$ in millions

Funds were allocated between CCOs and fee for service rates based on the estimated proportion of total mental health spending for the CCOs and using the 2021-23 Legislatively Adopted Budget for fee for service updated with actual spending through November 2021, less the cost of mental health drugs for both programs. For fee for service rates, OHA is working to target rate increases in alignment with its health equity principles. OHA will target rates for screening, assessment, and evaluation, groups service rates, bilingual services, culturally appropriate and culturally specific services, and peer delivered services. OHA will also target increases to rates that are relatively out of line with other payers, such as Medicare and CCOs.

CCO rates will not increase by 30%, but rather by an amount calculated to ensure their rates do not fall below fee for service rates. Increased CCO rates are complicated by the nature of OHA’s relationship with its managed care providers. Under a typical scenario, rate increases would be distributed to CCOs based on actuarial estimates of members needs and provider costs, with CCOs ultimately determining how best to spend funds from their global budget. To ensure the rate increases reach their intended target, OHA intends to use actuarial tools such as directed payments and minimum fee schedules. The directed payment model allows OHA to itemize what the rate increases can be used for, with CCOs using those funds to increase provider

reimbursement when members receive the identified service. Using directed payments will require approval from the Center for Medicaid and Medicare Services (CMS). A minimum fee schedule is a type of directed payment aimed at ensuring reimbursement rates meet a minimum level. In this case, OHA would target the fee for service fee schedule as the minimum CCOs would have to meet.

Administratively, changes to CCO and fee for service rates will require CMS approval. As part of receiving CMS approval, OHA will need to notify tribal leaders of the change. OHA will also have to update the Medicaid Management Information System to reflect the new rates, change its administrative rules, and potentially amend the fee-for-service schedule with the Health Evidence Review Commission.

OHA estimates the rollup costs of these rate changes at \$82.0 million General Fund and \$141.0 million Federal Funds in the 2023-25 biennium.

**Legal Reference:** Allocation of \$42,500,000 from the special purpose appropriation made to the Emergency Board by chapter 110, section 385 (1), Oregon Laws 2022, 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 \$112,000,000 for the 2021-23 biennium.



Office of the Director

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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 \$42.5M General Fund, currently in a special purpose appropriation, to increase behavioral health provider rates by an average of 30%. OHA also requests \$112M Federal Fund limitation for the Medicaid match, for a total of \$154.5M impact to the behavioral health system for the 2021-23 Biennium.

### **Agency Action**

The Oregon Health Authority (OHA) views this investment as a meaningful funding mechanism to further elevate our strategic goal to eliminate health inequities in Oregon by 2030. Within the inherent constraints of the implementation timeline, OHA is committed to evaluate and design reimbursement policy options from a health equity lens. The OHA's health equity definition is:

Oregon will have established a health system that creates health equity when all people can reach their full health potential and well-being and are not **disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances.**

Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments to address:

- The equitable distribution or redistribution of resources and power; and
- Recognizing, reconciling and rectifying historical and contemporary injustices.

The state's Medicaid Behavioral Health system has been under significant duress from a combination of forces, including behavioral health fallout from the COVID-19 Public Health Emergency, high levels of substance use and low levels of access, and high staff turnover due in part to uncompetitive wages. The legislative appropriation seeks to address these challenges.

For context, Medicaid pays providers in two ways:

1. **Fee for Service (FFS)/Direct**– Open Card or Fee-For-Service (FFS) paid directly to an enrolled provider (estimated \$80 million total fund/12 months July 2022-June 2023)
2. **Coordinated Care Organization (CCO)**– OHA pays CCOs a capitated rate through an at-risk contract and CCOs contract with providers for services (estimated \$74.5 million total fund/6 months January 2023-June 2023)

OHA intends to approach this investment from a health equity lens. Toward this values-oriented outcome, it is expected that behavioral health rate increases will lay the foundation and create the financial conditions to:

- Reduce behavioral health inequities and elevate quality and accountability
- Improve parity of rates within Medicaid and compared with other payers
- Result in person-directed care and community-driven engagement
- Result in better care coordination for people with intensive behavioral health service needs
- Incentivize culturally responsive and linguistically appropriate services
- Improve workforce diversity and increase staff retention

These objectives align with and offer additional operational and strategic perspective on the stated intent of the special purpose appropriation, which was to improve access, maintain provider networks, increase wages, and retain workers.

In mid-March, leadership and staff from OHA's Health Systems Division (Office of Behavioral Health Services, and Medicaid) and Fiscal and Operations Division (Office of Actuarial and Financial Analytics, and Budget) formed three inter-disciplinary workgroups to evaluate rate policy strategies and develop plans of action:

1. Community Engagement and Communication
2. Fee For Service Rates

### 3. Coordinated Care Organization Contract and Rates

Community voice will guide and direct these strategic assessments. We are cognizant that time constraints and urgency of developing and submitting a State Plan Amendment to meet the commitment to a July 1, 2022 effective date for the FFS rate increase will limit the extent to which all three workgroups will be able to explore options. Thus, the initial focus will be on less complex areas of disparities, underfunding, and/or underservice, with aim to lay foundation for evolving data validation and collaborative action-oriented research and community engagement that will further shift the dynamics toward equity-centered reimbursement rates.

The Office of Behavioral Health Services within OHA's Health Systems Division will engage with those who represent and experience the greatest health inequities to determine priorities for rate increases. Outreach will be fostered and facilitated by the Equity and Community Partnership unit and Office of Recovery and Resilience and will focus on inviting the following perspectives:

- Community members
- Advisory Councils
- Peer-run organizations
- Culturally Specific Providers that represent communities disadvantaged by race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances.

In addition, assessment and evaluation of policy options within FFS and CCO will be informed by the recently finalized [Behavioral Health Wage Study](#) that was submitted to the legislature on 2/1/2022. A key finding of the report was that increasing reimbursement rates will be necessary to create significant, sustained increases in wages. Additional recommendations relating to reimbursement rates were to:

- Increase reimbursement rates differently across services in order to remedy existing disparities in reimbursement rates
- Change reimbursement rate structures to fairly compensate practitioners able to provide bicultural and bilingual care
- Ensure rate increases translate into higher wages for practitioners
- Expand the services that can be reimbursed, and the provider types that can directly bill

### **FFS rates**

Broad increases to existing FFS fee schedule will be effective July 1, 2022. The intent is to establish different increase levels that seek to begin closing the gap on long standing funding disparities. To support the evaluation of rate increase differentiation, the Medicaid Policy Unit has developed a crosswalk of currently approved and reimbursable procedure codes and rates. A workgroup is assessing current FFS rates to determine which services may need larger or smaller rate increases, considering factors such as:

- Frequency / timing / nature of prior rate increases
- Commercial, CCO, and Medicare payment rates (benchmarking)
- Other legislatively funded increases (e.g., co-occurring disorders, ABA)

### **CCO rates**

Reflecting both a parallel and distinct evaluation and rate policy design process, agreements that facilitate CCOs to increase rates to their behavioral health provider network will be reflected in the 2023 CCO contract effective January 1, 2023. While implementation details are still in discussion, changes in CCO contracts will be made to match the intention of these funds and distribution to behavioral health providers through the CCO contract. OHA is exploring rate policy options to ensure accountability of these funds and engage with CMS to get approval for this significant increase. These include the following rate policies:

- Directed Payment (operationalized through a capitation rate increase)
- Minimum Fee Schedule requirement
- Minimum Medical Loss Ratio (MMLR) for behavioral health categories
- Additional reporting or adjusted reporting requirements
- Quality payments

The OHA workgroup will leverage existing CCO connections, including CCO Capitation workgroup, CCO Behavioral Health Directors peer group, and the CCO Contracts and Compliance workgroup. In addition, strategic evaluations and actions already being pursued by CCOs will inform final assessment and contractual agreements.

Changes to CCO and FFS rates are subject to CMS review and approval. Accordingly, informal outreach and consultation with CMS will begin by end of this month with



the goal of submitting a State Plan Amendment in the August-to-September timeframe. The timing of submission is in part related to our responsibility to provide Oregon tribal leaders with 90 days to consider the impact of proposed changes and request a tribal consultation. In addition, The Dear Tribal Leader Letter (DTLL) associated with the increases will be sent to Oregon’s tribes shortly.

OHA is working on system and rule changes to implement these changes in the Medicaid Management Information System, update Oregon Administrative Rules to operationalize new directed payments to CCOs, and potentially modifying the fee-for-service schedule with the Health Evidence Review Commission

Exhibit 1: Key Milestones & Rate Effective Dates

Milestone	Action
Apr 20 <sup>th</sup>	OHA submitted letter of proposed significant changes to CCO 2023 contract
Apr 26 <sup>th</sup>	OHA sent Dear Tribal Leader Letter to OHA’s Tribal Affairs Office
May 2 <sup>nd</sup>	OHA sent Letter to the Emergency Board
Jun 1 <sup>st</sup>	Emergency Board convenes and makes decision on release of Special Purpose Appropriation funds
By Jun 30 <sup>th</sup>	OHA posts official Public Notice
July 1 <sup>st</sup>	Effective date of Fee For Service behavioral health provider payment increases
By Aug 19 <sup>th</sup>	2023 Capitation Rates and Draft Contracts are due to CCOs
By Sep 30 <sup>th</sup>	OHA submits State Plan Amendment to CMS, for retroactive July 1 <sup>st</sup> effective date of behavioral health rate increases
Jan 1 <sup>st</sup> 2023	CCO capitation rate increased based on BH rate increases and associated rate policy; CCO contract reflects agreements

Senator Peter Courtney, Co-Chair  
Representative Dan Rayfield, Co-Chair  
May 2, 2022  
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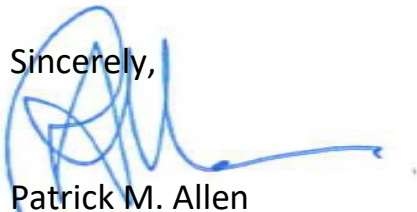
**Action Requested**

The Oregon Health Authority (OHA) requests \$42.5M General Fund from the special purpose appropriation and \$112M Federal Funds limitation to increase behavioral health provider rates by an average of 30% as directed by 2022 Short Session House Bill 5202 (HB 5202).

**Legislation Affected**

Oregon Laws 2021, Chapter 668 1(1), increase General Fund \$42,500,000  
Oregon Laws 2021, Chapter 668 5(1), increase Federal Funds \$112,000,000

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