

ANALYSIS

Item 88: Department of Consumer and Business Services Oregon Reinsurance Program

Analyst: Ben Ruef

Request: Increase Federal Funds expenditure limitation by \$5,000,000 for the Department of Consumer and Business Services' Oregon Reinsurance Program.

Analysis: The Oregon Reinsurance Program (ORP) was established in 2018 and was authorized in 2017 by the U.S. Department of Health and Human Services and the U.S. Department of the Treasury as part of the Patient Protection and Affordable Care Act (ACA). ORP makes health care claims payments to insurers to help pay for high-cost claims incurred for members who buy health care plans on the individual market from the Oregon Health Insurance Marketplace. These payments are designed to spread the risk of high-cost claims among all insurance companies to steady rates in the individual health market. This is intended to stabilize the individual market and encourage insurance companies to offer plans in more parts of the state. The program is funded with a mix of Other Funds revenues from a 2 percent tax on premiums of insurers, the Public Employees Benefits Board, and Federal Funds revenues allocated by The Centers for Medicare and Medicaid Services.

Over the course of the 2021-23 biennium The Centers for Medicare and Medicaid Services allocated to the Department of Consumer and Business Services (DCBS) \$73.7 million for the ORP, which is much higher than the \$50 million projected when the budget was developed. This unexpected increase in revenue is due to the passage of the American Rescue Plan in 2021 which temporarily enhanced and expanded payments in Advance Premium Tax Credits, ultimately providing the Oregon Reinsurance Program an additional \$23.7 million. DCBS can use an additional \$5 million of this funding in the current biennium and plans to spread the federal funding out over the next several years to ensure stable funding for the program to maintain the reductions in premiums over time.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board increase Federal Funds expenditure limitation for the Oregon Department of Consumer and Business Services by \$5,000,000 for the Oregon Reinsurance Program.

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Department of Consumer and Business Services
Heath

Request: Increase Federal Funds expenditure limitation by \$5.0 million for the Department of Consumer and Business Services' (DCBS) Oregon Reinsurance Program to make payments to insurers.

Recommendation: Approve the request.

Discussion: DCBS requests \$5.0 million in Federal Funds expenditure limitation to make payments to insurers under the Oregon Reinsurance Program (ORP). The program has a budget of \$209.6 million total funds in 2021-23. Originally created in 2017, ORP is designed to reduce insurance rates in the individual market by six percent below what they otherwise would have been. For the 2021 plan year the program covers the cost of up to 50 percent of each medical claim between \$83,000 and \$1.0 million. The program is funded with a mix of Other Funds revenues from a two percent tax on premiums of insurers, the Public Employees Benefits Board, and Coordinated Care Organizations and Federal Funds revenues from a Section 1332 waiver agreement with the federal government. Revenues not used for ORP may be transferred to the Oregon Health Authority to support the Oregon Health Plan or held in reserve by the program to be used for future reinsurance payments.

DCBS has additional federal waiver revenue for plan years 2021 and 2022, due to the passage of the American Rescue Plan in 2021. Waiver revenue is calculated based on savings the federal government realize from having ORP in place, in this case because lower health insurance rates means the federal government would not need to pay as much in Advance Premium Tax Credits (APTCs), which are the mechanism used to subsidize individual health plans for low- to moderate-income consumers. The American Rescue Plan Act temporarily enhanced and expanded income eligibility for APTCs, providing approximately \$18.1 million in additional funding for plan year 2021 and \$16.3 million for plan year 2022. The federal government has directed the additional funds be used to enhance the program but has given DCBS flexibility in terms of when the funds can be used. DCBS is planning to spread the federal funding out over the next several years to ensure stable funding for the program to maintain the reductions in premiums over time.

DCBS is requesting increased expenditure authority from the September Emergency Board, due to the timing of when reinsurance payments are made. Reinsurance payments are budgeted at \$107.8 million total funds for plan year 2021. Payments will be made in November 2022, meaning the additional Federal Funds expenditure limitation is needed before then. As DCBS does not need an additional total funds expenditure authority to make the payments, should the Emergency Board approve the request, the Department of Administrative Services will un-schedule \$5.0 million Other Funds expenditure limitation for the program.

Legal Reference: Increase Federal Funds expenditure limitation established by Chapter 503, Section 2 (5), Oregon Laws 2021, for the Department of Consumer and Business Services, Division of Financial Regulation, by \$5,000,000, for the 2021-23 biennium.



August 22, 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-Chairs:

Nature of the Request

The Centers for Medicare and Medicaid Services (CMS) has notified the Department of Consumer and Business Services (DCBS) that, due in part to the American Rescue Plan (ARP) Act of 2021, Oregon will receive \$73,723,375 in pass-through funding to implement our State Innovation Waiver under the Affordable Care Act (ACA) for calendar year 2021.

Oregon's State Innovation Waiver is used to fund the Oregon Reinsurance Program (ORP). The initial forecast DCBS used to estimate the program's federal limitation in our 2021-23 Legislatively Adopted Budget is less than what DCBS was awarded. Some of the funds awarded will be carried over to the next biennium to supplement the ORP in future plan years. DCBS requests an additional \$5,000,000 in Federal Funds limitation for the 2021-23 biennium to allow DCBS to fund the reinsurance payments for plan year 2021 with the maximum amount of federal dollars.

Background

In 2017, the U.S. Department of Health and Human Services and the U.S. Department of the Treasury approved Oregon's State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act (ACA). Oregon received a second approval in 2022 for an additional five-year waiver. Oregon's approved application waives the ACA's requirement for the single risk pool to the extent necessary to implement a state reinsurance program for plan years 2018 through 2027.

The ORP has been operating since Jan. 1, 2018, and extends through plan year 2027. The ORP makes health care claims payments to insurers to help pay for high-cost claims incurred for members who buy health care plans on the individual market from the Oregon Health Insurance Marketplace. The ORP spreads the risk of high-cost claims among all insurance companies to steady rates in the individual health market. The program is designed to stabilize the individual market and encourage insurance companies to offer plans in more parts of the state. It is funded through a combination of state and federal dollars, with the federal pass-through funds making

up a majority of the needed funds. If approved, this request will allow DCBS to further increase the proportion of federal funds used to support the program for plan year 2021.

Action Requested

DCBS respectfully requests that the Emergency Board approve our request to increase Federal Funds by \$5,000,000 for the 2021-2023 biennium.

Legislation Affected

Approval of this request will increase federal fund expenditure limitation in Chapter 503 Oregon Laws 2021, Section 2, Subsection 6 for the Department of Consumer and Business Services, Division of Financial Regulation.

Sincerely,



Andrew R. Stolfi
Director