

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3046 - 4

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Date: April 10, 2021

Measure Description:

Specifies behavioral health treatment that must be provided by coordinated care organizations and covered by group health insurance and individual health plans and restricts utilization review criteria for behavioral health treatment.

Government Unit(s) Affected:

Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA)

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

	2021-23 Biennium	2023-25 Biennium
Other Funds	708,708	896,073
Total Funds	\$708,708	\$896,073
Positions	4	4
FTE	3.00	4.00

Analysis:

HB 3046 - 4 requires each carrier that offers an individual or group health benefit plan that provides behavioral health benefits to conduct an annual analysis of nonquantitative treatment limitations for behavioral health benefits. "Nonquantitative treatment limitation" is defined as a limitation that is not expressed numerically but otherwise limits the scope or duration of behavioral health benefits. Carriers must report to the Department of Consumer and Business Services (DCBS) each year on nonquantitative treatment limitations for mental health and substance use disorder, and applicable medical or surgical benefits. DCBS is to report to the interim committees of the Legislative Assembly related to mental or behavioral health no later than September 15th of each year, comparing carriers' coverage of mental health treatment and services, and substance use disorder treatment and services, to carriers' coverage of medical or surgical treatments or services.

Coordinated care organizations (CCOs) must report to the Oregon Health Authority (OHA) each year on their compliance with mental health parity requirements. CCOs must demonstrate that the factors used to apply nonquantitative treatment limitations to mental health or substance use disorder treatment are comparable with factors used to apply nonquantitative treatment limitations to medical or surgical treatments in the same classification. OHA is to report to the interim committees of the Legislative Assembly related to mental and behavioral health no later than October 4th of each year on OHA's finding on parity, and an assessment of behavioral health coverage for CCO members and non-CCO medical assistance recipients.

This measure also further defines required behavioral health treatment requirements for CCOs, and group health insurance policies or individual health benefit plans. For CCOs, OHA is to adopt by rule a list of behavioral health services that may not be subject to prior authorization.

Group health insurance policies or individual health benefit plans must provide coverage for expenses that result from the diagnosis of behavioral health conditions and medically necessary behavioral health treatment. These policies and plans must cover out-of-network behavioral health treatment without any additional out-of-pocket costs when an in-network provider is not available in a geographic area, and must set reimbursement rates using the same methodology used for medical and surgical treatment providers. This measure requires DCBS to evaluate certain criteria during an annual review of an insurer's mental and behavioral health network.

This measure does not have an effective date and is assumed to take effect January 1, 2022.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact.

Department of Consumer and Business Services

The Department of Consumer and Business Services (DCBS) anticipates costs of \$708,708 Other Funds in 2021-23 and \$896,073 Other Funds in 2023-25. Other Funds are derived from the annual insurer premium assessment.

Most of these costs are related to four new permanent, full-time positions (3.00 FTE in 2021-23, 4.00 FTE in 2023-25) to comply with additional oversight and reporting requirements. Personal Services costs for these new positions are estimated at \$565,414 Other Funds in 2021-23 and \$753,886 Other Funds in 2023-25. These positions include:

- Two Insurance Examiners to conduct compliance reviews and market surveillance;
- One Operations and Policy Analyst 3 to manage implementation of this measure, and collect and report on behavioral health data provided by carriers; and,
- One Compliance Specialist 3 to review forms and policies and resolve non-compliance issues.

Additional costs include legal billings due to increased enforcement actions, IT costs related to modifications to the agency's existing iReg reporting platform to receive reports from carriers, and position-related Services and Supplies costs. In total these costs are estimated at \$143,294 Other Funds in 2021-23 and \$142,187 Other Funds in 2023-25.

Oregon Health Authority

The Oregon Health Authority (OHA) reports an indeterminate impact as a result of this measure. Changes to coverage requirements for health benefit plans could impact the premiums for the employee health plans offered by the Public Employees' Benefit Board (PEBB) and the Oregon Educators Benefit Board (OEBB), which are housed in OHA.

Based on input provided by OEBB's actuaries, an exact impact to OEBB premiums cannot be determined until further rulemaking is completed, but there is the potential for higher costs due to changes in requirements for treating behavioral health issues, increased utilization, and potential changes to provider payments. While costs for both Boards are budgeted as Other Funds, the corresponding revenue comes from the premiums paid by state agencies and universities for PEBB's plans and the K-12 school system for OEBB's plans.

OHA also notes an indeterminate impact for CCOs. Similarly, there may be increased utilization of certain behavioral health services, and changes to certain behavioral health treatment requirements, including the removal of a 45-day limit on long-term residential care, could increase costs. OHA notes that they are not able to determine what percentage of CCO claims for behavioral health services would be impacted, and whether CCO capitation rates would be impacted by the treatment requirements of this measure.

Notwithstanding the indeterminate impact on PEBB, OEBB, and CCO rates, the cost growth for these benefits is capped at 3.4% per member per year as part of Oregon's budget process.