

A-Engrossed House Bill 2086

Ordered by the House April 19
Including House Amendments dated April 19

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Health Authority)

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.

Appropriates moneys to Oregon Health Authority [*to undertake specified steps to address needs of individuals with behavioral health disorders for services, treatment and housing.*] **for programs that provide culturally specific services that are directly responsive to and driven by people of color, tribal communities and people of lived experience.**

Increases funding to reintegrate into community criminal defendants found unfit to proceed in criminal proceeding.

Appropriates moneys to authority to construct and operate secure residential treatment facility to serve up to 39 individuals.

Imposes requirements on authority regarding reimbursement for services provided by mental and behavioral health providers to medical assistance recipients.

Requires authority to continually evaluate and revise administrative rules to reduce regulatory burden on providers.

Directs authority to adopt rules requiring coordinated care organizations to provide housing navigation services and address social determinants of health through care coordination.

Requires intensive behavioral health treatment providers to collect and report to authority data regarding access to intensive behavioral health treatment for children and adolescents.

Requires authority to contract with third-party vendor to survey medical assistance recipients about their experiences with behavioral health care and services.

Requires authority to make specified reports to Legislative Assembly.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to individuals with behavioral health disorders; creating new provisions; amending ORS
3 430.335; repealing ORS 430.717; and declaring an emergency.

4 Whereas the Legislative Assembly declares that health equity must be advanced within the
5 state's behavioral health system regardless of race, ethnicity, location or housing status; and

6 Whereas mental health and substance use disorders must be detected early and treated effec-
7 tively; and

8 Whereas youth and adults with serious mental illness need timely access to the full continuum
9 of behavioral health care; and

10 Whereas youth and adults with serious mental illness need to receive treatment that is respon-
11 sive to their individual needs and leads to meaningful improvements in their lives; and

12 Whereas people with serious mental illness need access to affordable housing that offers inde-
13 pendence and is close to providers, community resources and public transportation; and

14 Whereas the supply, distribution and diversity of the behavioral health workforce needs to pro-
15 vide appropriate levels of care and access to care in the community; now, therefore,

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

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.

PROGRAMS AND SERVICES

SECTION 1. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$_____, which may be expended for:

(1) Programs that are directly responsive to and driven by people of color, tribal communities and people of lived experience, that are peer and community driven and that provide culturally specific services, and for medical assistance reimbursement of tribal-based practices.

(2) Increasing funding to reintegrate into the community criminal defendants who have been found unfit to proceed in a criminal proceeding due to a mental incapacity under ORS 161.370, including by:

(a) Establishing a reimbursement rate for case consultation and community reintegration services for at least 400 individuals; and

(b) Constructing and operating a secure residential treatment facility to serve up to 39 individuals per year.

SECTION 2. (1) The Oregon Health Authority shall reimburse the cost of co-occurring mental health and substance use disorder treatment services paid for on a fee-for-service basis at an enhanced rate based on:

(a) Existing reimbursement codes used for co-occurring disorder treatments;

(b) Clinical complexity; and

(c) The education level of the provider.

(2) The authority shall provide one-time start-up funding for behavioral health treatment programs that provide integrated co-occurring disorder treatment.

(3) The authority shall conduct a study of reimbursement rates for co-occurring disorder treatments, including treatment of a co-occurring intellectual and developmental disability and problem gambling disorder. No later than December 1, 2022, the authority shall report, in the manner provided in ORS 192.245, the findings from the study and recommendations for future rate development to the interim committees of the Legislative Assembly related to mental or behavioral health.

SECTION 3. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$10,200,000, which may be expended for carrying out section 2 of this 2021 Act.

WORKFORCE

SECTION 4. The Oregon Health Authority shall continually evaluate and revise administrative rules governing behavioral health programs and services to reduce the administrative burden of documentation, particularly around assessment and treatment planning, the measures and outcomes tracking system or successor systems and other reporting required for providers seeking certificates of approval and to ensure that the rules are consistent with the medical assistance program administrative rules that apply to behavioral health care staff operating in primary care and other settings.

SECTION 5. No later than February 1, 2022, the Oregon Health Authority shall report to

1 the interim committees of the Legislative Assembly related to behavioral and mental health,
2 in the manner provided in ORS 192.245, recommendations on achieving a living wage for be-
3 havioral health care workers, including peers and family support specialists. The report must
4 also consider pay inequities between physical health care workers and behavioral health care
5 workers and how to provide more equitable wages.

6 **SECTION 6.** (1) The Oregon Health Authority, with the advice of stakeholders and the
7 Alcohol and Drug Policy Commission, may establish minimum rates of reimbursement paid
8 by the authority or coordinated care organizations to addiction treatment providers to en-
9 sure medical assistance recipients' access, without delay, to all modalities of addiction
10 treatment within each geographic region of this state.

11 (2) The authority shall consider increasing the amount of the global payment to coordi-
12 nated care organizations for addiction services.

13 (3)(a) The authority shall increase the aggregate fee-for-service reimbursement rates for
14 addiction treatment providers by 25 percent above the rates paid on the effective date of this
15 2021 Act. The authority shall withhold 10 percent of the increase to pay providers annually,
16 as performance pay, for achieving diversity, vacancy reduction, retention and achieving goals
17 identified by the authority.

18 (b) The authority may require providers to quarterly report data or other information
19 regarding the use of the increased payments under paragraph (a) of this subsection.

20 (4) A claim for reimbursement of the cost of addiction treatment provided to a medical
21 assistance recipient must be paid by the authority or by a coordinated care organization no
22 later than 90 days after receipt of the claim.

23 (5) The authority shall ensure that the reimbursement paid to addiction treatment pro-
24 viders is equivalent to the reimbursement paid to mental health treatment providers that
25 have equivalent levels of education and training. The authority shall adjust rates as needed
26 to achieve parity or to provide incentives to increase workforce capacity to provide addiction
27 treatment.

28 (6) The authority and the commission shall monitor the impact of increased rates under
29 subsections (2) and (3) of this section on improving low-barrier access to addiction treatment
30 in this state and on improving the ability of addiction treatment providers to expand staff
31 and improve staff expertise.

32 **SECTION 7.** (1) The Oregon Health Authority shall seek any form of approval from the
33 Centers for Medicare and Medicaid Services necessary to carry out section 6 of this 2021 Act.

34 (2) The authority shall notify the Legislative Counsel upon receipt or denial of any ap-
35 proval necessary to carry out section 6 of this 2021 Act.

36 **SECTION 8.** The Oregon Health Authority shall contract with a third-party vendor to
37 survey medical assistance recipients about their experiences with behavioral health care and
38 services using a standardized survey tool.

39 **SECTION 9.** The Oregon Health Authority shall create workforce training and establish
40 endorsements or certifications for behavioral health providers of co-occurring disorder
41 treatment.

42
43 HOUSING

44
45 **SECTION 10.** The Oregon Health Authority shall adopt by rule requirements for coordi-

1 **nated care organizations to provide housing navigation services and address the social de-**
2 **terminants of health through care coordination.**

3 **SECTION 11.** ORS 430.335 is amended to read:

4 430.335. In accordance with the policies, priorities and standards established by the Alcohol and
5 Drug Policy Commission under ORS 430.223, and subject to the availability of funds therefor, the
6 Oregon Health Authority may:

7 (1) Provide directly through publicly operated treatment facilities, which shall not be considered
8 to be state institutions, or by contract with publicly or privately operated profit or nonprofit treat-
9 ment facilities, for the care of [*alcoholics or drug-dependent persons*] **individuals with substance**
10 **use disorders.**

11 (2) Sponsor and encourage research of [*alcoholism and drug dependence*] **substance use disor-**
12 **ders.**

13 (3) Seek to coordinate public and private programs relating to [*alcoholism and drug*
14 *dependence*] **substance use disorders.**

15 (4) Apply for federally granted funds available for study or prevention and treatment of
16 [*alcoholism and drug dependence*] **substance use disorders.**

17 (5) Directly or by contract with public or private entities, administer financial assistance, loan
18 and other programs to assist the development of [*drug and alcohol free*] housing **for individuals**
19 **with substance use disorders.**

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21 **DATA ON INTENSIVE BEHAVIORAL HEALTH TREATMENT**
22 **CAPACITY FOR CHILDREN AND ADOLESCENTS**
23

24 **SECTION 12.** (1) As used in this section and section 13 of this 2021 Act:

25 (a) **“Children and adolescents”** means individuals 20 years old and younger.

26 (b) **“Intensive behavioral health treatment provider”** means any provider licensed in this
27 state to provide intensive psychiatric treatment, acute inpatient treatment or residential
28 substance use disorder treatment of children and adolescents.

29 (2) Intensive behavioral health treatment providers shall collect and provide data to the
30 Oregon Health Authority, in the manner prescribed by the authority, on the demand for and
31 capacity to provide treatment of children and adolescents presenting with high acuity be-
32 havioral health needs. Intensive behavioral health treatment providers shall submit to a
33 centralized, real-time provider directory, bed registry and access portal established by the
34 authority:

35 (a) **Data on bed capacity;**

36 (b) **Referrals received, by provider; and**

37 (c) **Other information prescribed by the authority.**

38 (3) The authority shall use the data described in subsection (2) of this section to:

39 (a) **Monitor and track the capacity of intensive behavioral health treatment providers to**
40 **provide treatment of children and adolescents presenting with high acuity behavioral health**
41 **needs;**

42 (b) **Identify gaps in data that prevent the tracking of intensive behavioral health service**
43 **capacity and develop a plan for addressing the gaps that includes providing assistance to**
44 **providers and modifying required data elements that must be reported;**

45 (c) **Develop benchmarks and performance measures for intensive behavioral health**

1 treatment capacity; and

2 (d) Conduct research and evaluation of the children's and adolescents' continuum of care.

3 (4) The authority shall share data and coordinate processes with the Department of Hu-
4 man Services to populate the Children's System Data Dashboard described in ORS 418.981.

5 (5) The authority shall adopt rules to carry out the provisions of this section, including
6 rules establishing:

7 (a) Parameters and specifications for data collection;

8 (b) Processes for intensive behavioral health treatment providers to submit data for the
9 establishment of a centralized, real-time provider directory, bed registry and access portal;

10 (c) Requirements for the frequency of data submissions;

11 (d) Requirements for coordinated care organizations and insurers to collect and report,
12 for members and insureds treated by intensive behavioral health treatment providers, data
13 not submitted by providers under this section;

14 (e) A process for monitoring and documenting the need for high acuity behavioral health
15 services for children and adolescents;

16 (f) The authority's responsibilities for reporting data back to providers; and

17 (g) Measures to ensure compliance with data collection standards established under sec-
18 tion 40, chapter 12, Oregon Laws 2020 (first special session).

19 **SECTION 13.** (1) No later than December 1, 2022, the Oregon Health Authority shall re-
20 port to the interim committees of the Legislative Assembly related to health, in the manner
21 provided in ORS 192.245, and to the Governor recommendations to address:

22 (a) The demand and the capacity for intensive behavioral health treatment for children
23 and adolescents.

24 (b) Barriers to data collection and provider compliance with section 12 of this 2021 Act.

25 (2) The report shall include:

26 (a) Recommendations for overcoming barriers to data collection; and

27 (b) A plan for expanding the referral data collection requirements to providers in the
28 broader children's continuum of care, including community behavioral health services for
29 children and adolescents with lower-acuity needs, and to adult intensive behavioral health
30 treatment providers.

31 **SECTION 14.** In addition to and not in lieu of any other appropriation, there is appro-
32 priated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the
33 General Fund, the amount of \$400,000, which may be expended for carrying out the provisions
34 of section 12 of this 2021 Act.

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36 **OPERATIVE DATE**

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38 **SECTION 15.** Section 6 of this 2021 Act becomes operative on the earlier of January 1,
39 2022, or the date on which the Centers for Medicare and Medicaid Services provides approval,
40 if necessary, to carry out section 6 of this 2021 Act.

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42 **CAPTIONS**

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44 **SECTION 16.** The unit captions used in this 2021 Act are provided only for the conven-
45 ience of the reader and do not become part of the statutory law of this state or express any

1 **legislative intent in the enactment of this 2021 Act.**

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REPEALS

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5 **SECTION 17. ORS 430.717 is repealed.**

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7

EMERGENCY CLAUSE

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9 **SECTION 18. This 2021 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
11 **on its passage.**

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