

# House Bill 2388

Sponsored by Representative PRUSAK (Pre-session filed.)

## 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 **as introduced**.

Expands health benefit plan coverage of childbirth and pregnancy-related health care expenses. Specifies reimbursement of services provided by freestanding birthing centers. Requires Department of Consumer and Business Services to report to interim committees of Legislative Assembly related to health on implementation of expanded benefits.

Requires that specified services related to pregnancy and childbirth be covered by state medical assistance program. Requires Oregon Health Authority to prescribe uniform payment methodology for freestanding birthing centers.

## A BILL FOR AN ACT

1  
2 Relating to reimbursement of health care services; creating new provisions; and amending ORS  
3 414.065, 442.392 and 743A.080.

4 Whereas a pregnant person has the right to choose the place to give birth and the provider of  
5 maternity care; and

6 Whereas a pregnant person must not be required to give birth in a hospital in order for the  
7 costs to be reimbursed by an insurer; and

8 Whereas freestanding birthing centers are not treated fairly with respect to compensation for  
9 their services, compared to the compensation paid to hospitals; now, therefore,

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

11 **SECTION 1.** ORS 743A.080 is amended to read:

12 743A.080. (1) As used in this section[,]:

13 (a) **“Childbirth” means labor, delivery and perinatal care.**

14 (b) **“Freestanding birthing center” has the meaning given that term in ORS 442.015.**

15 (c) **“Pregnancy care” means *[the]* maternal and prenatal care necessary to support a healthy**  
16 **pregnancy *[and care related to labor and delivery]*.**

17 (2) ***[All]* A health benefit *[plans]* plan as defined in ORS 743B.005 must provide payment or re-**  
18 **imbursement for expenses associated with pregnancy care, *[and childbirth. Benefits provided under***  
19 ***this section shall be extended to all enrollees, enrolled spouses and enrolled dependents]* childbirth**  
20 **and postpartum care for both the mother and child for 60 days following delivery.**

21 (3) **The coverage described in subsection (2) of this section must:**

22 (a) **Reimburse a service provided:**

23 (A) **In a hospital, freestanding birthing center, clinic or patient's home; and**

24 (B) **By a licensed health care practitioner acting within the scope of the practitioner's**  
25 **license, including but not limited to the following:**

26 (i) **A direct entry midwife licensed under ORS 687.420;**

27 (ii) **A nurse practitioner licensed under ORS 678.375 to 678.390 and certified as a nurse**  
28 **midwife; and**

**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.

1 (iii) A naturopathic physician, licensed under ORS 685.100, who has a certificate of special  
2 competency in natural childbirth; and

3 (b) Pay a fee to a freestanding birthing center using a methodology that takes into ac-  
4 count the actual costs of the facility.

5 (4) The fee described in subsection (3)(b) of this section must be based on good faith ne-  
6 gotiations between the insurer and the freestanding birthing center.

7 (5) The Department of Consumer and Business Services may require insurers to report  
8 data necessary for the department to evaluate an insurer's compliance with this section.

9 **SECTION 2.** Section 3 of this 2021 Act is added to and made a part of ORS chapter 414.

10 **SECTION 3.** (1) As used in this section:

11 (a) "Childbirth" means labor, delivery and perinatal care.

12 (b) "Freestanding birthing center" has the meaning given that term in ORS 442.015.

13 (c) "Pregnancy care" means maternal and prenatal care necessary to support a healthy  
14 pregnancy.

15 (2) The types and extent of health care and services to be provided in medical assistance,  
16 as determined by the Oregon Health Authority under ORS 414.065, must include coverage for  
17 the expenses associated with pregnancy care, childbirth and postpartum care for both the  
18 mother and child for 60 days following delivery.

19 (3) The health care and services described in subsection (2) of this section include ser-  
20 vices provided:

21 (a) In a hospital, freestanding birthing center, clinic or patient's home; and

22 (b) By a licensed health care practitioner acting within the scope of the practitioner's  
23 license, including but not limited to the following:

24 (A) A direct entry midwife licensed under ORS 687.420;

25 (B) A nurse practitioner licensed under ORS 678.375 to 678.390 and certified as a nurse  
26 midwife; and

27 (C) A naturopathic physician, licensed under ORS 685.100, who has a certificate of special  
28 competency in natural childbirth.

29 **SECTION 4.** ORS 414.065 is amended to read:

30 414.065. (1)(a) With respect to health care and services to be provided in medical assistance  
31 during any period, the Oregon Health Authority shall determine, subject to such revisions as it may  
32 make from time to time and subject to legislative funding and paragraph (b) of this subsection:

33 (A) The types and extent of health care and services to be provided to each eligible group of  
34 recipients of medical assistance.

35 (B) Standards, including outcome and quality measures, to be observed in the provision of health  
36 care and services.

37 (C) The number of days of health care and services toward the cost of which medical assistance  
38 funds will be expended in the care of any person.

39 (D) Reasonable fees, charges, daily rates and global payments for meeting the costs of providing  
40 health services to an applicant or recipient.

41 (E) Reasonable fees for professional medical and dental services which may be based on usual  
42 and customary fees in the locality for similar services.

43 (F) The amount and application of any copayment or other similar cost-sharing payment that the  
44 authority may require a recipient to pay toward the cost of health care or services.

45 (b) The authority shall adopt rules establishing timelines for payment of health services under

1 paragraph (a) of this subsection.

2 (c) **The types and extent of health care and services to be provided in medical assistance,**  
 3 **as determined by the authority under paragraph (a)(A) of this subsection, and the fees,**  
 4 **charges, daily rates and global payments determined by the authority under paragraph (a)(D)**  
 5 **and (E) of this subsection, must be consistent with ORS 413.234, 414.432, 414.598, 414.710,**  
 6 **414.712, 414.728, 414.743, 414.760, 414.762, 414.764, 414.766 and 414.770 and section 3 of this 2021**  
 7 **Act and any other provision of law requiring the authority or a coordinated care organization**  
 8 **to reimburse the cost of a specific type of care.**

9 (2) The types and extent of health care and services and the amounts to be paid in meeting the  
 10 costs thereof, as determined and fixed by the authority and within the limits of funds available  
 11 therefor, shall be the total available for medical assistance and payments for such medical assistance  
 12 shall be the total amounts from medical assistance funds available to providers of health care and  
 13 services in meeting the costs thereof.

14 (3) Except for payments under a cost-sharing plan, payments made by the authority for medical  
 15 assistance shall constitute payment in full for all health care and services for which such payments  
 16 of medical assistance were made.

17 (4) Notwithstanding subsections (1) and (2) of this section, the Department of Human Services  
 18 shall be responsible for determining the payment for Medicaid-funded long term care services and  
 19 for contracting with the providers of long term care services.

20 (5) In determining a global budget for a coordinated care organization:

21 (a) The allocation of the payment, the risk and any cost savings shall be determined by the  
 22 governing body of the organization;

23 (b) The authority shall consider the community health assessment conducted by the organization  
 24 in accordance with ORS 414.577 and reviewed annually, and the organization's health care costs;  
 25 and

26 (c) The authority shall take into account the organization's provision of innovative, nontradi-  
 27 tional health services.

28 (6) Under the supervision of the Governor, the authority may work with the Centers for Medi-  
 29 care and Medicaid Services to develop, in addition to global budgets, payment streams:

30 (a) To support improved delivery of health care to recipients of medical assistance; and

31 (b) That are funded by coordinated care organizations, counties or other entities other than the  
 32 state whose contributions qualify for federal matching funds under Title XIX or XXI of the Social  
 33 Security Act.

34 **SECTION 5.** ORS 442.392 is amended to read:

35 442.392. (1) The Oregon Health Authority shall prescribe by rule a uniform payment methodol-  
 36 ogy for hospital, **freestanding birthing center as defined in ORS 442.015** and ambulatory surgical  
 37 center services that:

38 (a) Incorporates the most recent Medicare payment methodologies established by the Centers for  
 39 Medicare and Medicaid Services, or similar payment methodologies, for hospital, **freestanding**  
 40 **birthing center** and ambulatory surgical center services;

41 (b) Includes payment methodologies for services and equipment that are not fully addressed by  
 42 Medicare payment methodologies; and

43 (c) Allows for the use of alternative payment methodologies, including but not limited to pay-  
 44 for-performance, bundled payments and capitation.

45 (2) In developing the payment methodologies described in this section, the authority shall con-

1 vene and be advised by a work group consisting of providers, insurers and consumers of the types  
2 of health care services that are subject to the methodologies.

3 **SECTION 6. No later than September 15, 2025, the Department of Consumer and Business**  
4 **Services shall report to the interim committees of the Legislative Assembly related to**  
5 **health, in the manner provided in ORS 192.245, on the implementation of the amendments**  
6 **to ORS 743A.080 by section 1 of this 2021 Act.**

7 **SECTION 7. The Oregon Health Authority shall prescribe a payment methodology for**  
8 **freestanding birthing center services, in accordance with ORS 442.392, no later than June 30,**  
9 **2022.**

10 **SECTION 8. The amendments to ORS 743A.080 by section 1 of this 2021 Act apply to**  
11 **policies or certificates of insurance issued, renewed or extended on or after January 1, 2023.**

12 **SECTION 9. Section 3 of this 2021 Act and the amendments to ORS 414.065 by section 4**  
13 **of this 2021 Act become operative on July 1, 2022.**

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