B-Engrossed
House Bill 4035

Ordered by the House February 28
Including House Amendments dated February 16 and February 28

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Health Care for Representative Rachel Prusak)

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.

Requires Oregon Health Authority, in collaboration with Department of Human Services **and Department of Consumer and Business Services**, to develop and[*, subject to approval by Centers for Medicare and Medicaid Services,*] implement process for conducting medical assistance program redeterminations, when **federal** public health emergency ends, consistent with stated goals of Legislative Assembly. [*Grants, subject to conditions, specified flexibility to authority and department with respect to timing of redeterminations and timelines for obtaining eligibility information from enrollees.*] **Allows authority and Department of Consumer and Business Services to phase in redeterminations and adjust timelines, for up to 90 days, to minimize risk of disruptions in coverage or care for high-risk populations or populations at risk of becoming uninsured.** Authorizes temporary waiver of statutory limits on disclosure of enrollee information. Sunsets January 2, 2024.

Requires authority [*and department*]**, in collaboration with Department of Human Services and Department of Consumer and Business Services,** to develop outreach and enrollment assistance [*program*] and [*broad*] **specified** communications [*strategy*] **strategies**, with advice of community and partner work group. Specifies membership of work group. [*Requires authority and department to provide monthly updates on communications, outreach and navigation assistance activities to interim committees of Legislative Assembly related to health, Medicaid Advisory Committee and Health Insurance Exchange Advisory Committee.*] Sunsets January 2, 2024.

Establishes task force to develop proposal for bridge program to provide affordable health insurance coverage and improve continuity of coverage for individuals who regularly enroll and disenroll in medical assistance program due to frequent fluctuations in income. Specifies membership of task force. Requires, no later than [*May 31*] **July 31**, 2022, task force to submit report with recommendations to interim committees of Legislative Assembly related to health, subcommittee of Joint Interim Committee on Ways and Means related to human services, President of Senate, Speaker of House of Representative and Legislative Fiscal Officer. Sunsets January 2, 2024.

Requires authority to submit to Centers for Medicare and Medicaid Services request for federal approval necessary to secure federal financial participation in costs of administering bridge program. Requires authority to implement bridge program upon receipt of federal approval.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health care; and declaring an emergency.

Whereas as a result of the unprecedented public health emergency, the federal government adopted a national policy of continuing the enrollment of individuals in medical assistance programs to ensure as many individuals as possible maintain coverage through the pandemic and the public health emergency; and

Whereas Congress authorized reductions in administrative barriers to enrolling in medical assistance programs, such as permitting applicants to self-attest to certain eligibility criteria, to make it easier for eligible individuals to enroll in medical assistance programs; and

Whereas as a result, Oregon, along with other states, has provided continuous eligibility for individuals enrolled in the medical assistance program and that has led to greater access to health

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.

care in Oregon; and

Whereas Oregon, along with other states, has experienced a significant increase in the medical assistance program caseload such that more than 95.4 percent of Oregonians are enrolled in health care coverage, a rate higher than ever before; and

Whereas Oregon has also seen a significant reduction in inequities in health care coverage in 2021, and in particular the rate of uninsurance for Black or African American individuals, from 8.2 percent to 5 percent; and

Whereas in Oregon the continuous enrollment policy has substantially reduced the number of individuals who leave the medical assistance program and reenroll a short time later due to fluctuations in income, a phenomenon known as "churn"; and

Whereas when the public health emergency ends, Oregon will be faced with the unprecedented situation of having to redetermine eligibility for everyone enrolled in the medical assistance program with the potential of having hundreds of thousands of Oregonians exit the medical assistance program and lose access to health care; now, therefore,

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

GOALS OF THE LEGISLATIVE ASSEMBLY

SECTION 1. (1) It is the goal of the Legislative Assembly to:

(a) Develop a medical assistance program redetermination process that supports the Legislative Assembly's goals of maintaining access to insurance coverage and reducing the rate of uninsurance in this state;

(b) Provide up to 90 days for individuals to respond to requests for information necessary to renew their coverage under the medical assistance program and, for individuals leaving the medical assistance program, provide adequate time to transition to other health insurance coverage;

(c) Maximize health care coverage and maintain, to the maximum extent possible, enrollment in the medical assistance program for as many eligible individuals as possible;

(d) Create new options for affordable health insurance coverage that allow for continuity of coverage and care for the individuals who regularly enroll and disenroll in the medical assistance program due to frequent fluctuations in income;

(e) Adopt processes and policies that maintain or improve the current reductions in uninsured rates for priority populations; and

(f) Forestall termination of coverage under the medical assistance program for current medical assistance program enrollees with incomes at or below 200 percent of the federal poverty guidelines until the end of the phase out period, as defined in section 2 of this 2022 Act, contingent upon federal approval of and federal financial participation in the costs of a program described in section 5 of this 2022 Act.

(2) The Oregon Health Authority, in consultation with the Department of Human Services and the Department of Consumer and Business Services, shall seek federal approvals to secure federal financial participation in the costs of program changes necessary to carry out the goals described in this section within the authority's legislatively approved budget.

MEDICAL ASSISTANCE PROGRAM REDETERMINATIONS

SECTION 2. **(1) As used in this section, "phase out period" means the date by which the Centers for Medicare and Medicaid Services requires that medical assistance program redeterminations be completed for medical assistance program enrollees who were granted continuous enrollment due to the federal public health emergency related to COVID-19.**

(2) The Oregon Health Authority, in consultation with the Department of Human Services and the Department of Consumer and Business Services, shall develop a process for conducting medical assistance program redeterminations following the end of the federal public health emergency related to COVID-19. The process must ensure robust communications, outreach and navigation assistance for medical assistance program enrollees during the redetermination process.

(3) No later than May 31, 2022, the authority shall submit a report to the interim committees of the Legislative Assembly related to health, the subcommittee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer describing:

(a) The medical assistance program redetermination process;

(b) The operational timelines for processing the medical assistance program redeterminations;

(c) The risks to successfully implementing the medical assistance program redetermination process; and

(d) How the authority will use the authority's appropriations from the Legislative Assembly to complete the redeterminations.

(4) The authority may seek any necessary federal approval to maximize federal financial participation in the costs of the medical assistance program redeterminations and to ensure continuity of care for medical assistance program enrollees until the end of the phase out period, within the constraints of the authority's legislatively approved budget and federal resources.

(5) On or before March 1, 2023, the authority shall report to the interim committees of the Legislative Assembly related to health, the subcommittee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer:

(a) Any waivers or other approvals granted by the Centers for Medicare and Medicaid Services pursuant to subsection (4) of this section;

(b) How the redetermination process has been implemented; and

(c) Any substantial changes to the timeline for the completion of the redetermination process.

(6) The authority and the Department of Human Services shall make the reports described in subsections (3) and (5) of this section and other information about the redetermination process available on a publicly accessible website. The authority shall update the information on the website to show:

(a) The progress of the redetermination process; and

(b) Changes to the redetermination process or timelines that are imposed by the Centers for Medicare and Medicaid Services.

(7) To minimize the risk of disruptions in coverage or care for high-risk populations or populations at risk of becoming uninsured, the authority and the Department of Consumer and Business Services may:

(a) Phase in the redeterminations by population; and

(b) Adjust timelines, for up to 90 days, to obtain eligibility information from medical assistance program enrollees or to terminate coverage for enrollees, within the legislatively approved budget, to allow for adequate outreach and enrollment assistance to enrollees losing coverage. The authority shall seek federal approval to maximize federal funding during the extended timelines.

(8) Subject to subsection (9) of this section, the authority and the department may temporarily waive the limits on disclosure of medical assistance program enrollee information under ORS 410.150, 411.320, 413.175 or 741.510 or any state laws that limit disclosure, to promote greater information sharing with community partners that are assisting individuals who are reapplying for or seeking to maintain eligibility in the medical assistance program or who are in transition to coverage under the health insurance exchange, but only to the extent necessary to:

(a) Conduct outreach;

(b) Allow coordinated care organizations and insurers to conduct outreach and enrollment assistance; and

(c) Gather and submit to the authority and the department updated contact information.

(9) The authority and the department must ensure that appropriate consumer protections are considered before waiving any specific statutory requirements under subsection (8) of this section.

(10) The authority and the department may adopt rules or conduct emergency procurements necessary to ensure rules and resources are in place when needed to implement the process for conducting medical assistance program redeterminations until the end of the phase out period.

SECTION 3. (1) The Oregon Health Authority, in collaboration with the Department of Human Services and the Department of Consumer and Business Services, shall immediately convene a community and partner work group to advise the authority and the departments on the development of outreach and enrollment assistance and communications strategies, within the authority's legislatively approved budget, to communicate and assist medical assistance program enrollees in navigating the redetermination process and the enrollees' transition to coverage through the health insurance exchange.

(2) The work group must include representatives of impacted health systems, community partners, organized labor, medical assistance program enrollees, the Medicaid Advisory Committee and the Health Insurance Exchange Advisory Committee.

(3) The work group shall recommend:

(a) Strategies for obtaining and updating contact information for enrollees in the medical assistance program;

(b) Strategies for outreach and communication with enrollees in the medical assistance program, health care providers, community partners and other organizations;

(c) Strategies to maximize awareness of and utilization of navigational assistance for enrollees in the medical assistance program who will need to transition to other forms of coverage;

(d) Other strategies for conducting medical assistance program redeterminations to minimize the loss of enrollees' medical assistance program coverage; and

(e) Strategies to maximize the use of community-based organizations and other organ-

izations that contract with the authority to provide navigational assistance to medical assistance program enrollees.

(4) The authority shall consult with and seek recommendations from the work group for additional changes to the medical assistance program redetermination process that may be done within the authority's legislatively approved budget, such as:

(a) Conducting ex parte, automatic or active eligibility renewals;

(b) Changes to streamline the process for requesting additional information from medical assistance program enrollees;

(c) Changes to the post-eligibility verification process to allow continuous enrollment while eligibility is verified;

(d) Extending deadlines of up to 90 days for medical assistance program enrollees to respond to requests from the authority to verify eligibility factors;

(e) Increasing the use of application assisters; and

(f) Phasing in renewals by population.

(5) The authority shall incorporate the recommendations of the work group into the reports described in section 2 (3) and (5) of this 2022 Act.

BRIDGE PROGRAM AND PAUSE IN TERMINATIONS

SECTION 4. (1) A task force to create a bridge program is established.

(2) The task force shall consist of the following members:

(a) The President of the Senate shall appoint two nonvoting members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.

(c) The Governor shall appoint the following members:

(A) One member representing low-income workers who are likely to be eligible for the bridge program.

(B) Two members with expertise in health equity.

(C) One member with expertise in providing navigation assistance for health insurance consumers.

(D) One member representing organized labor.

(E) One member representing an insurer that offers qualified health plans on the health insurance exchange.

(F) One member representing a coordinated care organization.

(G) In addition to the members described in subparagraphs (H) and (I) of this paragraph, two members representing health care providers, one of whom represents a hospital or health system.

(H) One member with expertise in behavioral health care.

(I) One member representing an oral health care provider that contracts with the authority to provide care to enrollees in the medical assistance program.

(J) A representative of the Medicaid Advisory Committee.

(K) A representative of the Health Insurance Exchange Advisory Committee.

(d) The chairperson of the Oregon Health Policy Board or the chairperson's designee.

(e) The Director of the Oregon Health Authority or the director's designee.

(f) The Director of Human Services or the director's designee.

(g) The Director of the Department of Consumer and Business Services or the director's designee.

(3) The Governor shall select two of the nonvoting members of the task force to serve as cochairpersons.

(4) The members of the task force must be appointed and have their first meeting no later than March 31, 2022.

(5) The task force shall develop a proposal for a bridge program to provide affordable health insurance coverage and improve the continuity of coverage for individuals who regularly enroll and disenroll in the medical assistance program or other health care coverage due to frequent fluctuations in income.

(6) The authority and the Department of Consumer and Business Services shall consult with Oregon Indian tribes during the deliberations of the task force and incorporate tribal recommendations into the task force report and requests for federal approvals under subsections (7) and (9) of this section.

(7)(a) Except as provided in paragraph (b) of this subsection, the task force must complete the proposal for a bridge program and submit a report, no later than July 31, 2022, containing recommendations and a request for additional funding, if necessary, to the interim committees of the Legislative Assembly related to health, the subcommittee of the Joint Interim Committee on Ways and Means related to human services, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer. The report must include recommendations on:

(A) The potential development of additional federal waivers; and

(B) Suggested timelines for phasing in the bridge program.

(b) If the federal public health emergency related to COVID-19 is extended beyond April 16, 2022, the task force has until September 1, 2022, to complete the proposal and submit a report.

(8) The recommendations and proposal for a bridge program must, within available federal resources and the authority's legislatively approved budget:

(a) Prioritize health equity, reduction in the rate of uninsurance in this state and the promotion of continuous health care coverage for communities that have faced health inequities.

(b) Be consistent with the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.570 and enhance the coordinated care organization delivery system.

(c) Ensure that the bridge program is available to all individuals residing in this state with incomes at or below 200 percent of the federal poverty guidelines who do not qualify for the medical assistance program but who do qualify for advance premium tax credits, as defined in ORS 413.611.

(d) Maximize leveraging of federal funds and minimize costs to enrollees in the program and to the state budget.

(e) Provide, at a minimum, all essential health benefits, as defined in ORS 731.097 and, to the extent practicable, an option or options for dental coverage.

(f) To the extent practicable, include an option that has no cost-sharing, deductibles or other out-of-pocket costs and an option that provides lesser cost-sharing, deductibles or

other out-of-pocket costs than qualified health plans on the health insurance exchange.

(g) Establish a capitation rate to be paid to providers that is sufficient to provide coverage, within the authority's legislatively approved budget and available federal resources, but with reimbursement rates that are higher than the current medical assistance program reimbursement rates, to the extent practicable.

(h) Offer health care coverage through coordinated care organizations and align procurements for service providers on the same cycle as the procurements cycle for coordinated care organizations.

(i) Provide a transition period for eligible individuals to enroll in the bridge program.

(j) Take into account the health insurance exchange as an option for potential bridge program participants if the participants choose to opt out of the bridge program.

(k) In addition to using coordinated care organizations to deliver the services in the bridge program, include an option for offering the bridge program on the health insurance exchange if the plans meet criteria established by the Oregon Health Authority and the Department of Consumer and Business Services, to the extent practicable within the authority's legislatively approved budget and available federal resources.

(L) To the extent practicable, require coordinated care organizations to accept enrollees in the bridge program or require the authority to contract with a new entity to accept bridge program enrollees.

(9)(a) The task force shall identify potential disruptions to the individual and small group markets by the bridge program and develop mitigation strategies to ensure market stability including utilizing the Oregon Reinsurance Program or other mechanisms to limit disruptions in coverage.

(b) No later than December 31, 2022, the task force shall submit to the Legislative Assembly, in the manner provided in ORS 192.245, recommendations to alleviate disruptions to health care coverage for individuals and small employers in this state.

(10) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(11) Official action by the task force requires the approval of a majority of the voting members of the task force.

(12) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(13) The task force shall meet at times and places specified by the call of the cochairpersons or of a majority of the voting members of the task force.

(14) The task force may adopt rules necessary for the operation of the task force.

(15) The Director of the Legislative Policy and Research Office shall provide staff support to the task force.

(16) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(17)(a) Members of the task force who are not members of the Legislative Assembly and who have incomes at or below 400 percent of the federal poverty guidelines are entitled to compensation for actual and necessary expenses incurred by the members in the performance of their official duties, as provided in ORS 292.495.

(b) Members of the task force who are members of the Legislative Assembly are entitled to a per diem as provided in ORS 171.072 (4).

(c) Members not described in paragraph (a) or (b) of this subsection are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(18) The authority and the department are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 5. (1) To secure federal financial participation in the costs of administering the bridge program developed by the task force in accordance with section 4 of this 2022 Act and to achieve the goals of the Legislative Assembly described in section 1 of this 2022 Act to provide affordable health care coverage, improve the continuity of coverage and care for Oregonians and reduce health inequities for individuals who regularly enroll and disenroll in the medical assistance program due to fluctuations in their incomes, the Oregon Health Authority, in collaboration with the Department of Consumer and Business Services and with the approval of the Oregon Health Policy Board by a majority vote, shall request from the Centers for Medicare and Medicaid Services approval of:

(a) A demonstration project under 42 U.S.C. 1315;

(b) A basic health plan under 42 U.S.C. 18051;

(c) A waiver for state innovation under 42 U.S.C. 18052; or

(d) Any other federal approval needed to secure federal financial participation in the costs of the bridge program.

(2) After receiving the necessary approval from the Centers for Medicare and Medicaid Services, the authority shall:

(a) Begin implementation of the bridge program; and

(b) At the next regular session of the Legislative Assembly, provide a report to the Legislative Assembly, in the manner provided in ORS 192.245, containing:

(A) Details of the federal approval;

(B) A plan for implementation of the bridge program; and

(C) Recommended or needed, if any, legislative changes or budgetary actions.

SECTION 6. (1) While the request to the Centers for Medicare and Medicaid Services under section 5 of this 2022 Act is pending, and if necessary to forestall the termination of medical assistance for individuals with incomes at or below 200 percent of the federal poverty guidelines who are no longer categorically eligible for medical assistance but are likely to qualify for the bridge program under section 5 of this 2022 Act, the Oregon Health Authority shall seek federal approval to create a temporary medical assistance program category for such individuals with federal financial participation paid in the same percentage as individuals described in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(2) Individuals enrolled in the temporary medical assistance program category may remain enrolled in the category until the earliest of:

(a) The end of the phase out period, as defined in section 2 of this 2022 Act, unless the Centers for Medicare and Medicaid Services permit their continued enrollment; or

(b) The date on which the individuals are enrolled in the bridge program.

SECTION 7. If the Centers for Medicare and Medicaid Services has not approved the request submitted by the Oregon Health Authority under section 5 of this 2022 Act by the 60th day before the end of the phase out period, as defined in section 2 of this 2022 Act, if any, the authority shall begin the process of disenrolling individuals from the medical assistance

program and the temporary medical assistance program category described in section 6 of this 2022 Act, unless the Centers for Medicare and Medicaid Services allows the authority to continue enrollment through to a later date.

SECTION 8. The Bridge Plan Fund is established in the State Treasury, separate and distinct from the General Fund, consisting of federal funds received by the Oregon Health Authority to administer the bridge program described in section 5 of this 2022 Act. Moneys in the Bridge Plan Fund are continuously appropriated to the Oregon Health Authority to carry out section 5 of this 2022 Act.

SECTION 9. Section 5 of this 2022 Act is amended to read:

Sec. 5. [*(1) To secure federal financial participation in the costs of administering the bridge program developed by the task force in accordance with section 4 of this 2022 Act and to achieve the goals of the Legislative Assembly described in section 1 of this 2022 Act*] **The Oregon Health Authority shall administer a bridge program** to provide affordable health care coverage, improve the continuity of coverage and care for Oregonians and reduce health inequities for individuals who regularly enroll and disenroll in the medical assistance program due to fluctuations in their incomes.[*, the Oregon Health Authority, in collaboration with the Department of Consumer and Business Services and with the approval of the Oregon Health Policy Board by a majority vote, shall request from the Centers for Medicare and Medicaid Services approval of:*]

[*(a) A demonstration project under 42 U.S.C. 1315;*]

[*(b) A basic health plan under 42 U.S.C. 18051;*]

[*(c) A waiver for state innovation under 42 U.S.C. 18052; or*]

[*(d) Any other federal approval needed to secure federal financial participation in the costs of the bridge program.*]

[*(2) After receiving the necessary approval from the Centers for Medicare and Medicaid Services, the authority shall:*]

[*(a) Begin implementation of the bridge program; and*]

[*(b) At the next regular session of the Legislative Assembly, provide a report to the Legislative Assembly, in the manner provided in ORS 192.245, containing:*]

[*(A) Details of the federal approval;*]

[*(B) A plan for implementation of the bridge program; and*]

[*(C) Recommended or needed, if any, legislative changes or budgetary actions.*]

APPROPRIATION

SECTION 10. Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Health Authority by section 1 (1), chapter 668, Oregon Laws 2021, for the biennium ending June 30, 2023, for health systems, health policy and analytics, and public health, is increased by $120,000,000 for the purpose of carrying out sections 2 to 5 of this 2022 Act.

CAPTIONS

SECTION 11. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

SUNSET

SECTION 12. Sections 1 to 4 of this 2022 Act are repealed on January 2, 2024.

OPERATIVE DATES

SECTION 13. (1) Section 8 of this 2022 Act becomes operative upon receipt of federal approval to secure federal financial participation in the costs of the bridge program as described in section 5 of this 2022 Act.

(2) The amendments to section 5 of this 2022 Act by section 9 of this 2022 Act become operative on June 30, 2023.

EMERGENCY CLAUSE

SECTION 14. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.