

HB 2917 -2 STAFF MEASURE SUMMARY

House Committee On Behavioral Health and Health Care

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/27, 4/3

WHAT THE MEASURE DOES:

The measure directs the Oregon Health Authority (OHA) to study potential changes to the prioritized list of health services from the Health Evidence Review Commission (HERC) and to submit a report to the Legislative Assembly by September 15, 2026.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces the measure.

Detailed Summary:

- **Updates language in existing statute.**
 - Updates the definition of "health services" to remove reference to the prioritized list of health services compiled by the Health Evidence Review Commission.
 - Updates language regarding the determination of health services covered by the state medical assistance program. Specifies that the types and extent of health services provided to medical assistance recipients shall be determined in accordance with federal laws governing mandatory and optional services within the state medical assistance program. Directs OHA to use rule to establish standards for determining covered services, including a definition of medical necessity and criteria for determining medical necessity.
- **Health Evidence Review Commission (HERC)**
 - Changes language regarding HERC activities. Removes the prioritized list of health services. Directs HERC to develop and maintain clinical coverage policies that include diagnosis and treatment code pairings that indicate medically necessary health services by condition and guidelines for covering medically necessary services that are consistent with existing statute and federal laws governing mandatory and optional services for the state medical assistance program. Specifies that clinical coverage policies are not subject to alteration by other state agencies. Directs HERC to use peer-reviewed medical literature in determining clinical and cost effectiveness of health services when developing clinical coverage policies.
 - Directs HERC to report changes to clinical coverage policies to OHA by July 1 of even numbered years. Specifies when and how HERC may alter clinical coverage policies.
 - Directs HERC to use rule to adopt practices to prevent undue influence by interested parties.
- **Removes reference to the prioritized list of health services in existing statute, inserts reference to clinical coverage policies.**
 - Updates language regarding HERC use of comparative effectiveness research.
 - Updates language regarding insufficient resource availability during a contract period, prescription drug coverage, and reporting for coordinated care organizations related to mental health parity requirements.
 - Updates language around material change transactions of health care entities.
 - Updates language around health benefit plans offered on the exchange.
- Takes effect on the 91st day following adjournment sine die.

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Fiscal impact: May have fiscal impact, but no statement yet issued

Revenue impact: May have revenue impact, but no statement yet issued

BACKGROUND:

Oregon's Health Evidence Review Commission (HERC) is a commission of individuals with varied expertise that determines the medical necessity and cost effectiveness of treatments covered by the state medical assistance program, the Oregon Health Plan (OHP). Created through legislation in 1989, HERC determines which medical procedures, devices, and tests included on Oregon's Prioritized List of Health Services will be covered by OHP. In accomplishing this task, HERC utilizes the best available information and evidence on clinical and cost effectiveness. The Prioritized List is unique to Oregon where it has used since 1994; the list is revised every two years as part of the biennial budget process.

Both the HERC and the Prioritized list have been permitted through an 1115 demonstration waiver with the Centers for Medicare and Medicaid Services (CMS), a five-year waiver intended to allow for testing innovations to the state Medicaid program. With approval of the 1115 Waiver for 2022-2027, CMS notified the state that the Prioritized List will no longer be included in future waivers. Beginning in 2027, OHA will follow federal regulations used to govern all state Medicaid plans. Under this process, OHA will group services into categories set by the federal government, including some categories that are mandatory and some that are optional. Within mandatory categories, OHA will cover all medically necessary services, while OHA will determine which services will be covered within optional categories based on continued guidance from HERC.

House Bill 2917 directs the Oregon Health Authority (OHA) to study potential changes to the prioritized list of health services from the Health Evidence Review Commission (HERC) and to submit a report to the Legislative Assembly by September 15, 2026.