

Senate Bill 331

Sponsored by Senator FINDLEY (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**.

Allows Oregon Health Authority, upon receipt of federal approval, to assess fee on emergency medical services providers and to increase reimbursement paid for costs of emergency medical services transports by amount of federal matching funds received from Centers for Medicare and Medicaid Services for such costs.

Authorizes Medicaid supplemental reimbursements to be paid in addition to reimbursements paid by coordinated care organizations for emergency medical services transports.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to medical services; creating new provisions; amending ORS 413.234; and declaring an
3 emergency.

4 Whereas emergency medical services providers play an essential role in serving this state's
5 medical assistance recipients; and

6 Whereas in 2016, the Centers for Medicare and Medicaid Services denied a request by the state
7 to approve Medicaid supplemental reimbursement for private and contracted emergency medical
8 services providers; and

9 Whereas private and contracted emergency medical services providers must be ensured equal
10 access to funding for service that is available from the federal government;

11 Whereas it is the intent of the Legislative Assembly that the Oregon Health Authority seek
12 approval from the Centers for Medicare and Medicaid Services for supplemental funding for non-
13 federal, nonpublic emergency medical services entities only after approval is fully granted for the
14 Ground Emergency Medical Transportation program for public emergency medical services entities;
15 now, therefore,

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

17 **SECTION 1. As used in section 2 of this 2021 Act:**

18 (1) **"Emergency medical services" means the services provided by an emergency medical**
19 **services provider to an individual experiencing a medical emergency in order to:**

20 (a) **Assess, treat and stabilize the individual's medical condition; or**

21 (b) **Prepare and transport the individual to a medical facility.**

22 (2) **"Emergency medical services provider" means a nonfederal or nonpublic entity that:**

23 (a) **Employs individuals who are licensed by the Oregon Health Authority under ORS**
24 **chapter 682 to provide emergency medical services; and**

25 (b) **Contracts with a local government pursuant to a plan described in ORS 682.062.**

26 (3) **"Emergency medical services transport" means an emergency medical services**
27 **provider's evaluation of an individual experiencing a medical emergency and the transporta-**
28 **tion of the individual to the nearest medical facility capable of meeting the needs of the in-**

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 **dividual.**

2 (4) **“Federal financial participation” has the meaning given that term in ORS 413.234.**

3 (5)(a) **“Gross receipts” means gross payments received as patient care revenue for**
4 **emergency medical services transports, determined on a cash basis of accounting.**

5 (b) **“Gross receipts” does not include Medicaid supplemental reimbursement pursuant to**
6 **ORS 413.234.**

7 (6) **“Local government” has the meaning given that term in ORS 174.116.**

8 **SECTION 2. (1) The Oregon Health Authority may request approval from the Centers for**
9 **Medicare and Medicaid Services to administer the program described in this section. Upon**
10 **receipt of approval, the authority shall:**

11 (a) **On July 1 of each year, assess a quality assurance fee on each emergency medical**
12 **services transport provided by an emergency medical services provider licensed in this state**
13 **in an amount equal to the lesser of the amount permitted by federal law and five percent**
14 **of the projected total gross receipts for the following 12-month period, divided by the**
15 **projected number of emergency medical services transports in the same 12-month period.**
16 **The projections must be based on the data reported under paragraph (h) of this subsection.**

17 (b) **Prescribe the manner and due dates for the assessment and collection of quality as-**
18 **surance fees under this section.**

19 (c) **Modify or make adjustments to any methodology, fee amount or other provision**
20 **specified in this section to the extent necessary to meet the requirements of federal law or**
21 **to ensure federal financial participation in the costs of emergency medical services trans-**
22 **ports reimbursed by the authority.**

23 (d) **Assess interest on quality assurance fees not paid by the date due at 10 percent per**
24 **annum, beginning on the day after the date the payment was due.**

25 (e) **Assess a penalty equal to the interest charged under paragraph (d) of this subsection**
26 **for each month for which the payment is more than 60 days overdue.**

27 (f) **Deduct the amount of any unpaid fee, interest or penalty assessed under this section**
28 **from any fee-for-service medical assistance reimbursement owed to the emergency medical**
29 **services provider until the full amount of the fee, interest or penalty is recovered. The au-**
30 **thority may not make a deduction pursuant to this subsection until after the authority gives**
31 **the emergency medical services provider written notification. The authority may permit the**
32 **amount owed to be deducted over a period of time that takes into account the financial**
33 **condition of the emergency medical services provider.**

34 (g) **Establish the reimbursement to be paid to an emergency medical services provider**
35 **for an emergency medical services transport in an amount that is equal to the federal fi-**
36 **ancial participation received by the authority for the cost of the emergency medical ser-**
37 **vices transport. The reimbursement established under this paragraph:**

38 (i) **May not exceed the emergency medical services provider’s actual costs for the emer-**
39 **gency medical services transport, determined in accordance with standards established by**
40 **the authority, less the amount of reimbursement that the emergency medical services pro-**
41 **vider is eligible to receive from all public and private sources.**

42 (ii) **Shall be paid only from federal financial participation in the costs of emergency**
43 **medical services transports.**

44 (iii) **May not be used to supplant existing funding for emergency medical services trans-**
45 **ports.**

1 (iv) Shall be required and payable only for periods in which emergency medical services
2 providers are required to pay quality assurance fees.

3 (h) Prescribe the form and manner for an emergency medical services provider to report
4 the data necessary to administer this section and may require a certification by each emer-
5 gency medical services provider under penalty of perjury of the truth of the data reported
6 under this paragraph.

7 (i) Require a medical services provider to report to the authority the number of emer-
8 gency medical services transports it provided in each 12-month period, by payer type.

9 (j) Require an emergency medical services provider to report to the authority its gross
10 receipts for each 12-month period.

11 (2) All quality assurance fees and interest collected under this section shall be deposited
12 into the Emergency Medical Services Fund established in section 3 of this 2021 Act.

13 (3) The authority may waive a portion or all of the interest or penalties, or both, assessed
14 under subsection (1) of this section if the authority determines that the imposition of the full
15 amount of the quality assurance fee in accordance with the due dates established under
16 subsection (1) of this section is likely to impose an undue financial hardship on the emer-
17 gency medical services provider. The waiver must be conditioned on the emergency medical
18 services provider's agreement to pay the quality assurance fees on an alternative schedule
19 developed by the authority.

20 (4) In the event of a merger, acquisition or similar transaction involving an emergency
21 medical services provider that has outstanding quality assurance fees, interest or penalties
22 due, the successor emergency medical services provider is responsible for paying to the au-
23 thority the full amount of outstanding quality assurance fees, interest and penalties that are
24 due on the effective date of the merger, acquisition or transaction.

25 (5) The authority shall modify the method for calculating or paying the reimbursement
26 under subsection (1) of this section if the modification is necessary to ensure that the
27 expenditures for emergency medical services transports qualify for federal financial partic-
28 ipation.

29 (6) The authority shall administer this section in a manner that is consistent with:

30 (a) ORS 413.234 and 413.235; and

31 (b) Federal law, including the terms and conditions of agreements with the Centers for
32 Medicare and Medicaid Services.

33 (7) An emergency medical services provider shall report the data required by subsection
34 (1)(h) of this section within five days after the date upon which the report is due. After
35 sending written notice to an emergency medical services provider, the authority may impose
36 a penalty of \$100 per day against an emergency medical services provider for every day that
37 the report is overdue. Any funds resulting from a penalty imposed under this subsection
38 shall be deposited in the General Fund to be available for general governmental purposes.

39 **SECTION 3.** (1) The Emergency Medical Services Fund is established in the State Treas-
40 ury, separate and distinct from the General Fund. The Emergency Medical Services Fund
41 consists of moneys collected by the Oregon Health Authority under section 2 (2) of this 2021
42 Act. Moneys in the fund are continuously appropriated to the authority for the purposes of:

43 (a) Providing grants to innovative ambulance programs;

44 (b) Funding the state medical assistance program, including but not limited to increasing
45 reimbursement rates for emergency medical services transports; and

1 (c) **Administering section 2 of this 2021 Act.**

2 (2) **Interest earned by the fund shall be credited to the fund.**

3 **SECTION 4. (1) Section 2 of this 2021 Act is in addition to and not in lieu of the provisions**
 4 **of ORS 413.234 and 413.235.**

5 (2) **The reimbursement established under section 2 of this 2021 Act also applies to the**
 6 **reimbursement of emergency medical services providers, as defined in section 1 of this 2021**
 7 **Act, by coordinated care organizations, as defined in ORS 414.025, as permitted by the Cen-**
 8 **ters for Medicare and Medicaid Services.**

9 **SECTION 5.** ORS 413.234 is amended to read:

10 413.234. (1) As used in ORS 413.234 and 413.235:

11 (a) “Emergency medical services” means the services provided by emergency medical services
 12 providers to an individual experiencing a medical emergency in order to:

13 (A) Assess, treat and stabilize the individual’s medical condition; or

14 (B) Prepare and transport the individual by ground to a medical facility.

15 (b) “Emergency medical services provider” or “provider” means an entity that[:]

16 [(A)] employs individuals who are licensed by the Oregon Health Authority under ORS chapter
 17 682 to provide emergency medical services[:] and

18 [(B)(i)] **that** is owned or operated by a local government, a state agency or a federally recog-
 19 nized Indian tribe.[: or]

20 [(ii)] *Contracts with a local government pursuant to a plan described in ORS 682.062.*]

21 (c) “Federal financial participation” means the portion of medical assistance expenditures for
 22 emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid
 23 Services in accordance with the state plan for medical assistance.

24 (d) “Local government” has the meaning given that term in ORS 174.116.

25 (2) Upon request, an emergency medical services provider that has entered into a provider
 26 agreement with the authority **or a contract with a coordinated care organization** is eligible to
 27 receive Medicaid supplemental reimbursement from the authority **or coordinated care organiza-**
 28 **tion** for the cost of providing emergency medical services to a medical assistance recipient. The
 29 Medicaid supplemental reimbursement shall be added to the payment **by the authority or coordi-**
 30 **nated care organization** for the emergency medical services [*established by the authority in ac-*
 31 *cordance with ORS 414.065*] **as permitted by the Centers for Medicare and Medicaid Services.**

32 (3)(a) Except as provided in paragraph (b) of this subsection, the Medicaid supplemental re-
 33 imbursement paid to an emergency medical services provider shall be equal to the amount of federal
 34 financial participation received by the authority for the provider’s cost for the emergency medical
 35 services.

36 (b) The Medicaid supplemental reimbursement paid to a provider under this section may not
 37 exceed the provider’s actual costs for the emergency medical services, determined in accordance
 38 with standards established by the authority, less the amount of reimbursement that the provider is
 39 eligible to receive from all **public and private** sources[, *including the payment amount for emergency*
 40 *medical services established by the authority in accordance with ORS 414.065*].

41 (4) An emergency medical services provider shall make readily available to the authority doc-
 42 umentation, data and certifications, as prescribed by the authority, necessary to establish that the
 43 emergency medical services expenditures qualify for federal financial participation and to calculate
 44 the amount of Medicaid supplemental reimbursement that is due.

45 (5)(a) Except as provided in paragraph (b) of this subsection, the authority shall modify the

1 method for calculating or paying the Medicaid supplemental reimbursement if modification is nec-
2 essary to ensure that emergency medical services expenditures qualify for federal financial partic-
3 ipation.

4 (b) This section does not authorize the payment of Medicaid supplemental reimbursement to an
5 emergency medical services provider if the provider has not entered into a provider agreement[,]
6 with the authority, **or a contract with a coordinated care organization**, to serve medical assist-
7 ance recipients.

8 (c) If the Centers for Medicare and Medicaid Services approves the implementation of this sec-
9 tion and later revokes its approval or expresses its intent to revoke or refuse to renew its approval,
10 the authority shall report the fact at the next convening of the interim or regular session commit-
11 tees of the Legislative Assembly related to health care.

12 (6) General Fund moneys may not be used to implement this section. As a condition of receiving
13 Medicaid supplemental reimbursement, an emergency medical services provider must enter into and
14 comply with an agreement with the authority to reimburse the authority for the costs of adminis-
15 tering this section.

16 *[(7) This section applies only to emergency medical services providers that are reimbursed by the*
17 *authority on a fee-for-service basis.]*

18 **SECTION 6. The Oregon Health Authority shall immediately notify the Legislative**
19 **Counsel if the Centers for Medicare and Medicaid Services approves or disapproves, in whole**
20 **or in part, a request for approval to administer the program described in section 2 of this**
21 **2021 Act.**

22 **SECTION 7. This 2021 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
24 **on its passage.**

25
