

Enrolled
House Bill 3037

Sponsored by Representative COWAN; Representatives BEYER, HOLVEY, OLSON, SCHAUFLEER, TOMEI, Senators BATES, EDWARDS, JOHNSON, MONNES ANDERSON, MONROE, ROSENBAUM, VERGER

CHAPTER

AN ACT

Relating to senior services; amending ORS 316.147, 316.148, 410.410, 410.420, 410.430, 410.435, 410.450, 410.470, 410.480 and 410.851.

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

SECTION 1. ORS 410.410 is amended to read:

410.410. As used in ORS 410.410 to 410.480:

(1) "Authorized agency" means any organization designated by the Department of Human Services as an area agency on aging.

(2) "Authorized service" means any service **described in ORS 410.420 (1) and** designated by the department [pursuant to] **by** rule to be eligible for Oregon Project Independence funding.

[(3) "Department" means the Department of Human Services.]

[(4) "Home health service" means items and services furnished to an individual by a home health agency, or by others under arrangement with such agency, on a visiting basis in a place of temporary or permanent residence used as the individual's home for the purpose of maintaining that individual at home.]

[(5)] (3) "Service provider" means any agency or program that provides one or more [authorized services under Oregon Project Independence] **services described in ORS 410.420.**

SECTION 2. ORS 410.420 is amended to read:

410.420. (1) Funds appropriated for Oregon Project Independence shall [only] be expended for **home care supportive services including in-home or community-based services that assist an individual in achieving the greatest degree of independent functioning in the individual's home.**

(2) Funds appropriated for Oregon Project Independence may be expended for the following services:

(a) **Services to support community caregivers and strengthen the natural support system for seniors including, but not limited to:**

(A) **Information and assistance in accessing health and social services;**

(B) **Respite care;**

(C) **Training; and**

(D) **Counseling.**

(b) **Health promotion services including, but not limited to:**

(A) **Chronic disease management;**

(B) **Fall prevention activities;**

- (C) Nutrition counseling;
- (D) Physical activities; and
- (E) Medication management.

(c) Options counseling to provide individuals and their families with up-to-date, comprehensive, objective and easy to understand information about the full range of immediate and long range options that:

- (A) Educates individuals and families about available community support options;
- (B) Assesses the needs and resources of individuals and families;
- (C) Assists individuals and families in developing and implementing informed and cost-effective decisions about long term support choices; and
- (D) Provides intensive counseling for individuals at risk of unnecessary or premature nursing facility placement.

(d) Transportation options that allow individuals to live at home and access the full range of community resources. [*the following authorized services:*]

- [(a) Homemaker;]
 - [(b) Housekeeper;]
 - [(c) Chore;]
 - [(d) Escort;]
 - [(e) Home health;]
 - [(f) Personal care service;]
 - [(g) Elderly day care; and]
 - [(h) Other services authorized by the Department of Human Services.]
- [(2) The department shall adopt rules to implement ORS 410.410 to 410.480.]

SECTION 3. ORS 410.430 is amended to read:

410.430. (1) In order to qualify for **authorized** services from an authorized agency or service provider, each client [*or recipient*] must:

- (a) Be 60 years [*old*] **of age** or older or have been diagnosed as having Alzheimer's disease or a related disorder;
- (b) Not be receiving financial assistance from the Department of Human Services, except supplemental nutrition assistance and limited Medicare reimbursement benefits administered by the department; and
- (c) Be assessed to be at the risk of entering an institution.

(2) Eligibility determination [*shall be*] **is** required before any client may receive services from an authorized agency or service provider.

SECTION 4. ORS 410.435 is amended to read:

410.435. (1) Notwithstanding ORS 410.430 and subject to the conditions described in subsection (2) of this section, the Department of Human Services shall adopt rules[.:]

[(a)] expanding the eligibility requirements of Oregon Project Independence to cover persons 19 years of age or older with physical disabilities.[; and]

[(b) Expanding authorized services under Oregon Project Independence to include:]

[(A) Public education on long term care planning and resources;]

[(B) Establishment and maintenance of a website on long term care planning and resources; and]

[(C) Long term care case management and case planning services offered for a fee to persons who are not eligible for services from Oregon Project Independence.]

(2) The department may not adopt the rules expanding Oregon Project Independence described in subsection (1) of this section unless the amount of moneys in the Oregon Project Independence Fund established in ORS 410.422 is sufficient to provide services to eligible clients under ORS 410.410 to 410.480 and is sufficient to fund the expansion of the program to persons with physical disabilities [*and the additional authorized services described in subsection (1) of this section*].

(3) Rules adopted under subsection (1) of this section are valid only for the biennium in which the rules are adopted.

SECTION 5. ORS 410.450 is amended to read:

410.450. (1) Eligibility determinations and determinations of services for Oregon Project Independence shall be made in accordance with rules of the Department of Human Services.

(2) [*Determination of*] **Eligibility for authorized** services shall be based on each client's financial, physical, functional, medical and social need for such services.

(3) Clients who appear eligible for services provided by the department because of disability or age and income shall be encouraged to apply to the department for service.

SECTION 6. ORS 410.470 is amended to read:

410.470. (1) The Department of Human Services shall establish fees for **authorized** services [*provided under ORS 410.410 to 410.480 after consultation with area agencies on aging*] **after consultation with authorized agencies.** The fees may differ for different areas and for different income levels.

(2) Fees established under subsection (1) of this section shall be charged to all clients.

(3) A record of all fees collected **under subsection (1) of this section** shall be kept by each authorized agency and made available upon request to the department.

(4) The department may establish fees for services described in ORS 410.420 (2).

[~~(4)~~] (5) Nothing prevents any client of Oregon Project Independence from making a contribution.

[~~(5)~~] (6) Fees and any contribution must be used to expand services.

SECTION 7. ORS 410.480 is amended to read:

410.480. (1) Each authorized agency and service provider shall maintain books, records, documents and accounting procedures which reflect costs and such other activities as the Department of Human Services may require. The books, records and documents shall be made available to the department upon request.

(2) Each authorized agency shall submit to the department an audit of its financial records annually. Such audits shall be conducted by an individual holding a permit issued by the Oregon Board of Accountancy under ORS 673.010 to 673.457.

(3) Fiscal and program reports shall be completed on forms provided by the department and be submitted to the department by the specified due dates.

(4) The use or disclosure by any party of any information concerning a [*recipient or*] client [*of authorized*] **receiving** services described in ORS [*410.410 to 410.480*] **410.420** for any purpose not directly connected with the administration of the responsibilities of the department, or an authorized agency or a service provider, is prohibited except with written consent of the recipient, or the legal representative thereof.

SECTION 8. ORS 316.147 is amended to read:

316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

(1) "Eligible taxpayer" includes any individual who must pay taxes otherwise imposed by this chapter and:

(a) Who pays or incurs expenses for the care of a "qualified individual," as defined in subsection (2) of this section, through a payment method determined by rule of the Department of Revenue; and

(b) Who has a "household income," as defined by ORS 310.630, for the taxable year, not to exceed the maximum amount of household income allowed in ORS 310.640 (1989 Edition) for a homeowner or renter refund.

(2) "Qualified individual" includes an individual at least 60 years of age on the date that the expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:

(a) Whose household income, as defined by ORS 310.630, does not exceed \$7,500 for the calendar year in which the taxable year of the taxpayer begins;

(b) Who is eligible for [*home care*] **authorized** services **as defined in ORS 410.410** under Oregon Project Independence [*provided by the Department of Human Services*];

(c) Who is certified by the Department of Human Services; and

(d) Whose care or any portion thereof is not paid for under ORS chapter 414.

SECTION 9. ORS 316.148 is amended to read:

316.148. (1) A credit against the taxes otherwise due under this chapter shall be allowed to an eligible taxpayer with respect to food, clothing, medical care and transportation expenses paid or incurred by the taxpayer during the taxable year on behalf of a qualified individual in order that the qualified individual is not placed or maintained in a nursing home unnecessarily. The amount of the credit shall be \$250 or eight percent of the expenses paid or incurred during the taxable year, whichever is less.

(2) No credit shall be allowed under this section for expenses paid or incurred for any period of time in which the qualified individual is a resident in a nursing home or is receiving [aid] **authorized services as defined in ORS 410.410** from Oregon Project Independence.

SECTION 10. ORS 410.851 is amended to read:

410.851. (1) The Legislative Assembly finds and declares that patients admitted to and cared for by long term care facilities in Oregon are more impaired than in the past. In keeping with the traditional commitment of the State of Oregon to the care and protection of its citizens who are frail or elderly or who have disabilities, as expressed in ORS [410.020 (1) to (6)] **410.010**, the Legislative Assembly declares that a patient-based reimbursement system emphasizing quality incentives is appropriate for long term care facilities. Such a system would reward long term care facilities for outcomes, such as maintaining or improving a patient's condition, and meet the legitimate costs of caring for patients.

(2) As used in this section, "patient-based reimbursement" means reimbursement for direct patient care according to the needs of the patient, based on multiple levels of patient health, functioning and impairment.

(3) A patient-based reimbursement system does not require the Department of Human Services to assess each patient and reimburse long term care facilities according to the constantly changing conditions of the patients except for changes between skilled and intermediate levels of care which shall result in prompt readjustment of rates.

(4) The department shall establish by rule definitions of levels of care and the payment rates for the patient-based reimbursement system. The rates shall be designed to maintain and enhance access to community-based care services.

(5) Notwithstanding ORS 410.555, the department, in cooperation with representatives of community-based care providers, shall implement policies that offer incentives to providers for entering into Medicaid contracts with the department and that enable a patient, to the greatest extent possible, to remain in the residential setting offering the scope of services that best meets the patient's needs.

Passed by House April 26, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 16, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State