

LEGISLATIVE UPDATE

Prepared for OAHU

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OEBB Opt-Out

Pressure continues to mount on legislators to allow school districts to opt out of the Oregon Educators Benefits Board (OEBB) if they can find less expensive health insurance elsewhere.

OEBB claims it saves school districts more than 12% compared with the trend for large groups. But the districts that have some or all of their employees insured through the commercial market instead of OEBB show massive cost savings.

- Ashland School District saved \$21.7 million over 9 years compared with OEBB
- Beaverton saved \$25.8 million over 5 years
- Bethel saved \$1.5 million each year
- Corvallis saved \$9 million over 5 years

Karen Patten, Willamette County School District Superintendent, told the House Health Committee there are much better insurance options at lower cost outside of OEBB.

Lobbyists for School District Administrators and the School Boards Association said health care costs are overwhelming districts. "If Portland had similar health care costs to Vancouver, the savings would have exceeded the PERS reforms passed last session," one said.

Both groups said they would work with OEA and OEBB to see if they can reach any agreement on how to bring health insurance costs under control.

Concentrated Market Makes Outpatient Dialysis Prohibitively Expensive

SEIU and insurance carriers supported SB 900 (2019) that would have lowered commercial health insurance premiums for dialysis patients. The bill failed to move out of committee, but the issue is being revived in the interim.

Rep. Andrea Salinas (D-Lake Oswego) told the committee that the American Kidney Foundation and the nation's two leading dialysis companies are involved in "questionable business practices" that seem to be steering patients away from kidney transplants and towards dialysis to benefit their bottom line.

SEIU and insurers, including Providence and Cambia, spoke in favor of legislative action, while Fresenius, a dialysis company operating in Oregon "wants a solution that works for everyone". Both sides argued they want to expand patient access.

Health Care Cost Growth Benchmark

Oregon Health Authority director Pat Allen laid out the rationale for creating a system wide cost growth benchmark.

- Oregonians have the 3rd highest insurance deductibles in the country
- Oregon's health care spending grew at the 4th highest rate from 2009-14 (4.42% compared with the national average of 3.14%)
- Utilization of health care services in Portland is 1% below the national average but the price is 18% above the national average

- Utilization of professional health care services is 9% below the national average, while the price is 34% above the national average
- The cost of a normal delivery in Oregon varies from \$5,000 to \$21,000, depending on which hospital you go to

Health care economist John McConnell described Oregon as a low utilization, high priced state. He encouraged legislators to look at issues of consolidation and price variability as they consider changes to Oregon's health care market.

CCO 2.0 – Provisional Contracts, Losing Provider Contracts, and Medical Transportation Challenges

OHA awarded one-year provisional contracts to four CCOs whose applications did not meet the standards of the CCO 2.0 program. Patrick Allen, OHA Director, "remains confident" that these can all be converted into full five-year-contracts by the end of 2019, unless OHA uncovers unforeseen problems in its review.

OHA's goal is to allow Oregon Health Plan members to remain under the care of their primary or behavioral health practitioner, even if they change CCOs. Only 100,000 OHA enrollees (out of a million) are in a "member choice area" with the option of choosing their CCO.

Some OHP enrollees had to change CCOs because their **CCO lost important contracts with providers**. Trillium in Lane County lost its primary care contracts with Peace Health and Oregon Medical Group, so OHA moved some enrollees to PacificSource. In Portland, Trillium has six months to secure a hospital contract. Until then, all Medicaid enrollees in the metro area will be assigned to Health Share. All Care in Jackson County lost its primary care contract in Medford, so Jackson Care Connect now covers some of its members.

Non-emergency **medial transportation** is a **serious access-to-care** issue in different parts of the state, with Portland facing a "massive breakdown". Patients have missed dialysis and chemotherapy appointments. OHA issued Portland's Health Share a letter of correction in October, requiring it to address these serious challenges and make improvements by the end of 2019.

Governor Creates Behavioral Health Advisory Council

Tina Edlund, Senior Policy Advisory to the Governor, says we have over 700,000 people in the state with a mental health disorder, 45% of whom don't receive treatment within a year of their diagnosis. One in 4 of those adults have a co-occurring substance use disorder. This led the Governor to issue an executive order creating a Behavioral Health Advisory Council.

The council met this week for the second time and is charged with providing recommendations to improve the full continuum of behavioral health. She expects that those recommendations will inform the Governor's budget in 2021.

Behavioral Workforce Strategy and Barriers to Treat Co-Occurring Disorders

Steven Allen, Director of Behavioral Health for the Oregon Healthy Authority (OHA) presented on the shortage of behavioral health workers in Oregon. He categorized providers in three subsets:

1. Medical prescribers (psychiatrists, addiction medicine MDs, nurse practitioners)
2. Professional clinical possessions (psychologists, clinical social workers, licensed counselors and therapists)
3. Paraprofessional and non-traditional positions (certified alcohol/drug counselors, case managers, peer supports)

Sen. Denyc Boles (R-Salem) asked if he had any data around retention issues. He said his evidence is anecdotal but consistent. “People talk about a churn rate of between 50-80%, especially in the lower tiers of the workforce.”

Allen also touched on the difficulty of treating co-occurring disorders. “In some settings, especially in rural settings, if someone comes to see me for their mental illness and substance abuse, today I can see them for their mental illness and bill for that. But they have to come back tomorrow for me to bill for their substance use because we can’t bill for a similar service on the same day with the same patient. That’s ridiculous.”

“This all comes from a legacy in which mental health and substance use disorder were funded differently and had different policies. Those are completely outdated and can be overcome,” he said. Some states dealt with this, says Allen, and Oregon would not be breaking ground on this, we would simply be catching up with those states.

Prescription Drug Monitoring Program – Reducing Opioid Prescriptions

OHA and the Oregon Health Leadership Council set up a public-private partnership to reduce opioid prescribing. One of its initiatives, the Prescription Drug Monitoring Program (PDMP), integrates opioid prescription data into health IT, such as electronic health records. It is widely utilized by practitioners and is “having a significant impact on acute prescribing” after surgery or other procedures, according to Susan Kirchoff who works on the program. 10,000 fewer acute prescriptions have been written in Oregon. Next steps include developing guidelines for acute opioid prescriptions and opioid tapering, reducing barriers for non-opioid therapies, and educating providers on pain science.

OHA Court-Ordered Behavioral Health Caseload Lower than Forecasted

The Oregon Health Authority forecasted a higher “mandated” caseload than it has, meaning it does not need \$15 million of its appropriated budget, Tom MacDonald from the Legislative Fiscal Office told the Interim House Behavioral Health Subcommittee.

This OHA caseload is court-ordered and includes civil commitment, guilty except for insanity, and “aid and assist” cases.

Rep. Mitch Greenlick (D-Portland) said, “We know people who need services aren’t getting them. We have a budgeting process that seems independent of what’s going on.”

OHA is reviewing its forecasting methodology.

SB 24 – Community Treatment for Mental Health “Aid and Assist” Cases

SB 24 passed in 2019 with the goal of treating individuals in “aid and assist” cases at the community level, rather than at the State Hospital. When individuals accused of a crime have severe mental illness that prevents them from participating in a trial, they are sent to mental health treatment until they can “aid and assist” in their own defense.

Sen. Floyd Prozanski (D-Eugene) updated the Interim House Behavioral Health Subcommittee on workgroup efforts to ensure the complex bill is implemented, for example strengthening community treatment capacity, and reducing “aid and assist” for those accused of non-criminal violations and misdemeanors.

Oral Health in Schools

About half of Oregon children are cavity free, which means the other half have cavities, 20% of which are untreated, Jennifer Clemens, DDS, Dental Director at Capitol Dental, told the Senate Education Committee. She said the most recent Oregon Smile

Survey showed that 5% of children have rampant decay, meaning they have 7 or more cavities.

Capitol Dental proposed three actions, which do not necessarily require legislation:

1. Include oral health in the Student Success Act
2. Add oral health education to existing health education standards for K-12, which are scheduled for review in 2023
3. Support continuation and expansion of the current school-based oral health prevention programs

In a separate hearing before the Senate Health Committee, Tom Holt, representing the Oregon Community Foundation, said their proposal for the February session includes three different elements:

1. Include oral health in health education standards
2. Seek federal funding for dental health care coordinators
3. Allow DCOs and CCOs to spend money on oral health that is not claims based.

Oregon's Efforts to Reduce Vaping

One in four 11th graders report using e-cigarettes – a much higher rate than adults. Oregon has seen 17 severe lung injuries and two deaths from vaping.

In response to the crisis, Governor Brown issued an executive order in October 2019 that bans flavored THC and nicotine vaping products, though that ban has been stayed by a court case challenging the executive order. OHA is rolling out a statewide prevention and education campaign, and working to develop legislative proposals for next session.

Corporate Activity Tax Technical Adjustments

Oregon's new corporate activity tax (CAT) on businesses with sales over \$1 million takes effect January 1, but legislators know they still need to clarify some details. The Senate Finance Committee is talking about a "technical adjustment" bill for February.

Potential changes include:

- Registration – one-time first year registration. The current bill requires annual registration for companies with receipts exceeding \$750,000
- Penalty provisions – create safe harbor for businesses. They need to pay 80% of what they owe in quarterly payments during the first year. Give the Department of Revenue leeway to waive penalties if businesses are making a good-faith effort to pay the tax
- Calendar year vs. fiscal year – the tax is currently by calendar year. May need to change language for businesses that use a different fiscal year

The first rules on the existing tax legislation are expected from the Department of Revenue in early January.

Campaign Finance Reform

Sen. Jeff Golden (D-Ashland) says he plans to introduce a bill in February that would eliminate corporate campaign contributions and limit individual donations.

His proposal includes two categories of donors: individuals and "small donor" committees.

Proposed individual contribution limits include:

- \$750 per election. With two elections, primary and general, an individual could contribute \$1500 per election cycle
- \$2000 per election for Governor

- Individuals could also contribute up to \$200 to each small donor committee, up to \$1000 total

Legislative caucuses and political parties would also be allowed to make contributions.

Small donor committees, political party committees and legislative caucus committees would be able to contribute 20 times the individual limit, e.g. \$15,000 per election for legislative races and \$40,000 per election for statewide races.

Former state senator Alan DeBoer encouraged the Senate Finance Committee to simplify the process and restrict contributions to personal checks only, no matter what the limits (so no PACs or small donor committees).

Former state representative Jefferson Smith recommended lower contribution limits saying, "The higher the limits, the fewer individuals get to play."

The 2019 legislative session referred a measure to the 2020 ballot that, if voters approve, would make it constitutional to set campaign limits in Oregon.

Oregon is one of only four states with no campaign contribution limits.

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