
LEGISLATIVE UPDATE

Prepared for OAHU

June 7, 2020

Medicaid Enrollment Increases Misleadingly Low

Despite record high unemployment, Oregon has only seen a 3.5% increase (roughly 15,000) in Medicaid enrollment. Oregon Health Authority Director Pat Allen says that they believe the number is so low because people don't tend to enroll until they seek care. The Department of Consumer and Business Services has also extended grace periods to 60 days for people and businesses to pay their premiums, which could account for the delayed increase.

The state still expects to add about 200,000 people to the Medicaid rolls in the coming months.

Oregon Receives Federal Coronavirus Support

Nic Blosser, Governor Brown's chief of staff, told the Senate Labor and Business Committee about federal support Oregon has received which includes:

- PPP loans to OR Businesses - \$6.8B to 57,000 businesses
- Stimulus payments to individuals - \$2.78B
- COVID Testing - \$101M
- Education (K-12, Higher Ed) - \$280M
- Coronavirus Relief Fund - \$1.39B
- Direct aid to other governments
- Portland, Multnomah & Washington counties - \$247M
- Oregon airports - \$140M
- Oregon transit districts - \$285M

Blosser also said guidelines for school reopening are expected next week. And many counties may begin Phase 2 reopening on June 5.

Oregon has also created a small business navigator (on Business Oregon website or call 833-604-0880) to provide coronavirus assistance.

Employment Department Shake-Up

The Governor fired the Employment Department director last Sunday following hearings in the House about thousands of unprocessed and unpaid claims for unemployment benefits. Legislators are being inundated with constituent complains from laid-off workers who have been trying, unsuccessfully, to collect unemployment benefits, sometimes for months.

The new Employment Department interim director, David Gertstenfeld, told the Senate Labor and Business Committee that they are now processing more than twice as many claims in a day as we used to do in a week.

He said they've paid \$1.5B in benefits to 245,000 Oregonians since March 21. But he acknowledged that there are still some 38,000 claims that have not been processed and he said they will be their immediate priority.

Are Virtual Sessions in the Legislature's Future?

Oregon's Constitution prevents meeting in session using remote technology, with one exception. Voters amended the Constitution in 2012, allowing a virtual session if the Governor declares a catastrophic disaster. But the Governor can only call one special session per disaster and the only legislation that can be considered during such a session must deal directly with that disaster.

So, for example, the Governor could declare a catastrophic disaster related to the COVID-19 pandemic and the legislature could meet virtually, but it would not be able to consider a budget bill dealing with firefighting expenses during that session. To do that, the legislature would need to meet in person.

Sen. Elizabeth Steiner Hayward (D-Portland) told the Senate General Government Committee she thinks they should refer a Constitutional Amendment to the voters in November to allow the legislature to meet in a virtual session if there's an on-going public health crisis. "It may well be inadvisable to bring 90 legislators and staff into the Capitol in person," she said. "We need the flexibility to have a virtual session and/or a virtual special session."

CCO Financial Supports for Providers and Communities

The Oregon Health Authority (OHA) has tried to accelerate cash flow by pushing out quality incentive pool funds early. 60% went out in March and the remaining 40% will go out in June based on each coordinated care organization's (CCO) 2019 performance.

All CCOs were required by the OHA to report on their provider payment and financial strategies. PacificSource for example says they have made supplemental payments for April and May to help address drops in cash flow from fewer clinic visits.

Jeanne Savage, Chief Medical Officer, Trillium CCO, says that because she works one day a week at Yakima Valley Farm Workers Clinic, she was able to tailor Trillium's support to the need she saw at the clinic level. So far they've provided \$9.7 million into Lane and Douglas Counties through quality methodologies. They also identified the clinics that had been hardest hit and worked with them to provide targeted financial supports. Support has also been provided on a micro-level—Savage spoke about an obstetrics clinic that asked for extra blood pressure cuffs so they could monitor high risk patients via telemedicine rather than bringing them into the clinic.

James Schroeder, CEO of Health Share of Oregon says that they targeted their help clinics at higher risk. Schroeder says they have already paid out \$35 million directly to clinics, including \$4 million to behavioral health clinics.

CCOs are held to an 85% medical loss ratio. If a CCO does not meet that target, they must rebate the difference back to the state. With claims being down, Sen. Dennis Linthicum (R-Klamath Falls), was curious how CCOs were managing to meet the target. He asked the panelists whether telehealth coverage was making up for the drop in claims.

None of the CCOs had an answer.

Health Care Liability

Oregon hospitals and physicians told the Senate Judiciary Committee that complying with the Governor's executive orders — to conserve PPE and halt all elective and non-urgent procedures — exposed them to additional liability.

Kevin Campbell, Oregon Association of Hospitals and Health Systems (OAHHS) said, “These executive orders changed the standard of care but did not include liability protection, in recognition of the increased exposure.”

Brian Boehringer, OMA, said, “One example is a patient who is scheduled for a routine cancer screening. That procedure is determined to be non-urgent, to preserve PPE and later on there is a diagnosis of cancer. That provider shouldn’t be exposed to additional liability because they were following the altered standard of care required by the Governor’s executive order.”

Hospitals and doctors are asking for limited liability protection, only during the state of emergency, and only for those actions taken to comply with the Governor’s orders.

AARP testified that it opposes extending any immunity for long-term care facilities. They said 60% of Oregon’s COVID-related deaths have been connected to nursing homes and long-term care facilities.

Unions Seek “Presumption of Pandemic Exposure” in Workers Comp

A coalition of unions are asking legislators to change Oregon law so when any Oregon worker contracts COVID-19, the presumption would be that they caught the virus on the job and they would be entitled to workers comp benefits. The unions say workers are being asked to do their jobs without adequate Personal Protective Equipment (PPE).

To date, SAIF reports there have been 376 COVID-19 workers comp claims. The vast majority (91%) are from healthcare and residential care workers; 3% are from first responders. Of those, 68% were tested; 46% were positive. So far, 252 of the claims have been accepted; 45 denied and others are still pending.

Holly O’Dell from SAIF told the Senate Judiciary Committee that workers are already covered when an on-the-job transmission of the virus occurs. “The proposal would make fundamental and far-reaching changes, threatening a successful system currently based on the core principle of providing benefits for illnesses caused by work,” she said.

Paloma Sparks, Oregon Business & Industries (OBI) said the unions’ presumption proposal, “Would require employers to shoulder the bulk of the burden of a global pandemic.”

CCBHCs Lack Funding during Incredible Time of Need

Americans are suffering. One third of Americans are reporting depression and anxiety, compared to 11% in the month prior, according to Janice Garceau, Deputy Director of Behavioral Health in Deschutes County.

Garceau reminded the Senate Mental Health Committee of recent efforts to establish “parity” for mental health. The 2014 Excellence in Mental Health Care Act was the first attempt to establish parity between mental and physical health, treating mental health as a health offering for the first time. Because mental health was historically left out of federal funding, America has a frayed system, poor infrastructure, too few services and poor outcomes for individuals with mental health issues.

The Certified Community Behavioral Health Clinic demonstration project launched in 2017. Oregon was one of eight states funded, and 12 of the original grantees around the state.

SB 1552, which would have extended CCBHC’s state federal match dollars, died due to the premature end of Oregon’s 2020 session.

PeaceHealth’s Medical Director of Behavioral Health Services Wiley Dickerson spoke about the impact of this “horrendous loss” of funding, “Without the CCBHC payment model, PeaceHealth is going to serve fewer patients overall, and its ability to provide

comprehensive, team-based care across age ranges to everyone who needs them will be severely impacted.” Dickerson added that this will shift costs “from preventative care, which we’ve found to be very effective, to acute care,” increasing the burden on emergency services, public safety, in-patient psychiatric care – “a real terrible thing for all of us.”

Community Mental Health Programs Face Immense Need

Amy Baker, Executive Director of Clatsop Behavioral Healthcare, told the Senate Mental Health Committee, “It shouldn’t come as a shock to anyone that we as a country are not doing very well. People’s behavioral health is absolutely suffering.” She continued, “We started with a pandemic and now we have this other situation unfolding and it’s devastating for our communities. ...We’re having a very public discourse – what is the value of a human life?”

Baker reported a three-fold increase in requests for services over the last few weeks. “We see behaviors of despair that are not typical for my community,” she added.

Eva Rippeteau from ADSME told the committee of challenges that were elevated by COVID, which could be made worse by budget cuts, such as staffing.

Impact on Hospitals

Oregon hospitals saw over \$600 million in operating losses in March and April alone. Net patient revenue was down 41% in DRG hospitals and 73% in rural hospitals. Despite receiving about \$270 million in federal aid, Oregon Association of Hospitals and Health Systems President Becky Hultberg says that only translates to about one month’s worth of operating expenses for hospitals. Federal relief was not intended to backfill losses entirely. “The reassuring presence of a hospital in our communities is only possible if they have the finances to stay open” Hultberg reminded the Senate Health Committee.

Access to personal protective equipment is still a large issue as well. “Some hospitals are using double the PPE, but are receiving only 1/3rd of requested supplies,” says Hultberg. “The manufacturing capabilities globally simply can’t keep up.”

Emergency Board Allocates Federal Coronavirus Relief Funds

The Emergency Board (E-Board) met late Friday to allocate some \$200 million in federal CARES funds to a variety of state programs including:

Childcare Provider Assistance

\$30 million will go to the Early Learning Division in the Department of Education to help child care providers cover the increased costs resulting from the pandemic. These funds can be used for:

- child care providers facing closure, absences or reduced enrollment
- costs for children of essential employees and
- maintaining or reopening programs.

Rep. Rob Nosse (D-Portland) said, “I hope some of the funding can be used for hazard pay, to help retain needed child care workforce. This is a nice chunk of change. \$30 million will go a long way to help our child care providers.”

Rural Hospital Stabilization Grants

E-Board approved \$50 million in grants to Oregon’s 33 rural Type A & B hospitals. The Oregon Business Development Department (OBDD) will distribute the funds. These

are federal monies and must be used for expenditures incurred due to the public health emergency between March 1, 2020 and December 30, 2020.

Rep. Rob Nosse (D-Portland) said, "I hope we target those that are small and are not affiliated with big systems that have large reserves."

E-Board also agreed to look at the needs of the larger, rural hospitals like Bay Area (Coos Bay) and Sky Lakes (Klamath Falls) for possible future funding.

PPE for Small Business

\$10 million will be allocated to the Oregon Business Development Department (OBDD) to provide personal protective equipment (PPE) to small businesses. OBDD will work with small business development centers, chambers of commerce and other organizations to purchase and distribute PPE to small businesses at no or reduced cost.

Rent, Housing and Mortgage Assistance

The Emergency Board authorized \$55 million for rental assistance to landlords of tenants who are unemployed due to COVID-19. Another \$20 million will go to owners of affordable rental housing projects. The funding will be forgivable loans, forgiven dollar for dollar when the landlords forgive rent payments.

E-Board also authorized \$25 million to provide mortgage payment assistance for Oregonians whose incomes have been hard hit by the pandemic.

Behavioral Health Services Funding

E-Board is providing \$25.6 million to enhance behavioral health services for individuals impacted by COVID-19 with an emphasis on communities of color, tribes and vulnerable populations. The funding includes:

- \$11 million for community mental health programs
- \$6 million to enhance statewide crisis line capacity
- \$3.3 million for outreach services to individuals not currently connected to the behavioral health system
- \$3 million to increase bed capacity in community residential treatment facilities
- \$1.7 million for an opioid harm reduction clearinghouse to purchase supplies to prevent overdose and the spread of communicable disease
- \$600,000 to increase the number of certified recovery mentors

All of these are one-time investments.

Broadband Capacity

The Rural Broadband Capacity Program will receive \$20 million to continue its work expanding broadband capacity for rural schools, businesses, and healthcare providers. This will help rural schools provide online school instruction during the pandemic and help hospitals better provide telehealth services.

Half of the funds would be used to complete a high-speed fiber-optic network for the public sector. This will focus on serving southern and eastern Oregon including Roseburg, Medford, Ashland, Klamath Falls, The Dalles, Pendleton, La Grande, Ontario and Burns.

E-Board members expressed concerns about whether broadband is an eligible expense under the federal CARES act. Other states, including Idaho, are making similar expenditures.

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