2017 Legislative Session Wrap-up

2017-2019 Budget

The Oregon Health Authority budget for the 2017-2019 biennium continues the investment to provide coverage to more than 1 million low-income Oregonians through the Oregon Health Plan. The 2017-2019 Legislatively Adopted Budget (LAB) includes $19.8 billion, which reflects a 1.4 percent reduction from the 2015-2017 LAB.

Investments in health transformation

**HB 5026 budget language: new investments in behavioral health**

The non-Medicaid budget fully funds the current service level for community mental health without program reductions. In addition, an increase of $20.1 million in tobacco tax revenues is available to fund mental health programs. This is the result of forecast increases in expected tobacco tax revenues, as well as funds that were not fully used in the 2015-2017 biennium that are now available for 2017-2019. The agency expects to invest most of these resources in programs that will help the state to meet the goals outlined in the U.S. Department of Justice Performance Plan. Priorities include $10-15 million in additional funding for mobile crisis services and rental assistance with peer support. Other investment priorities include school-based access to behavioral health and the implementation of the Suicide Prevention and Intervention Plan. A total of $2.5 million will be used for veterans’ behavioral health services. OHA will work with the Oregon Department of Veterans’ Affairs and other stakeholders to identify a process to fund programs and services that improve behavioral health outcomes for Oregon’s veterans, distribute funds and report back to the 2019 Legislature.

**HB 5026 Budget Note: Behavioral Health Shared Accountability**

OHA shall work with coordinated care organizations (CCOs), county mental health programs, local public health and mental health authorities, and others within each geographic area to create a single plan of shared accountability for behavioral health system coordination by July 2018. The agency shall provide a progress report to the Joint Committee on Ways and Means during the 2018 legislative session, and a final report to the Legislature by December of 2018 on each region’s governance model and plan for shared accountability.

**HB 5026 Budget note: Rate Analysis**

OHA shall conduct a rate analysis, including but not limited to provider costs as well as expected revenues from billing for rehabilitative services. The agency shall report to the Interim Joint Committee on Ways and Means by November 30, 2017, with a proposed plan for a standard rate or set of rates, a proposed schedule to move all providers to these rates, an analysis of the cost and plans for funding both the Medicaid and non-Medicaid components. The plan should prioritize increasing rates for providers who typically receive higher
rates. Contingent on available funding, the agency will implement at least the first phase of the plan beginning January 1, 2018. If the agency is unable to fully fund the plan within its existing budget, it should request additional funding during the 2018 legislative session.

Health system transformation and coordinated care organizations (CCOs)

**HB 2391 – OHP funding**

House Bill 2391 imposes a 1.5 percent assessment on commercial health insurance premiums and premium equivalents for managed care organization and Public Employees Benefit Board (PEBB) health benefits plans. The bill also modifies the current hospital assessment and authorizes fund transfers from Oregon Health & Science University (OHSU) and the Hospital Transformation Performance Pool (HTPP). Together, the provisions of HB 2391 will create an estimated $650 million in new revenue for OHA. Most of this money will be used in conjunction with federal matching funds to help fund the Oregon Health Plan (OHP). OHP entered the 2017 legislative session with a shortfall of more than $900 million due to a reduction in federal match and the loss of one-time federal funds. House Bill 2391 allows OHA to maintain OHP at current eligibility and benefit levels.

**SB 558 – Health Care for All Oregon Children Program**

Senate Bill 558 provides for medical assistance coverage of children under 19 years of age through the Health Care for All Oregon Children program regardless of immigration status. The Health Care for All Oregon Children program was established in 2009 and had previously provided medical assistance coverage only to children who were lawfully present in the state.

**HB 2300 – Mental health prescription drugs**

House Bill 2300 establishes the Mental Health Clinical Advisory Group in OHA to develop evidence-based algorithms for prescription drug treatment of mental health disorders in medical assistance recipients. The bill requires the advisory group to report to the Legislature in December of 2017 and 2018. The bill also continues the requirement that OHA pay for mental health drugs on a fee-for-service (FFS) basis.

Behavioral health

**SB 48 (OHA bill) – Suicide risk assessment continuing education for professionals**

SB 48 requires certain licensing boards to make rules to accommodate professionals who voluntarily take continuing education (CE) in suicide risk assessment and treatment. Boards are then required to report to OHA regarding the percentage of their licensees who reported completing suicide-related CE and the counties in which they practice.

**SB 49 (OHA bill) – Juvenile aid and assist services and placement**

SB 49 will make it possible for a juvenile who has been found unable to assist in their defense, to receive restoration services in their current placement unless they are in detention. SB 49 seeks OHA will provide the boards with a list of suggested CEs and report to the Legislature on medical providers’ voluntary participation in this continuing education.
to keep kids in their current placement, ensuring stability and the best possible environment for youth to maintain existing social supports. In doing so, OHA must coordinate with the Department of Human Services (DHS), Oregon Youth Authority (OYA) and the youth’s family. If the child is unable to restore in place, SB 49 specifies that the youth must be returned to their previous placement after leaving the Farm Home.

**HB 2304 (OHA bill) – Peer support specialists**

This bill adds the definitions of peer support specialist, family support specialist, and youth support specialists to statute and adds these worker subtypes to the Traditional Health Worker Commission.

In addition, it directs OHA and the Attorney General to develop a plan for incorporating advocates for domestic and sexual violence survivors into the Traditional Health Worker Commission.

**HB 3090 – Emergency department (ED) discharge protocols**

HB 3090 requires a hospital with an emergency department to adopt and implement policies relating to the release of a patient who was being seen for a behavioral health crisis. The bill prescribes that the policies must, at a minimum, align with the discharge requirements identified in ORS 441.196. In addition, hospitals must submit to OHA information about the adoption and implementation of the prescribed policies so that OHA may report to an interim legislative committee any barriers to implementing policies and possible recommendations for future changes.

**HB 3091 – Care coordination after behavioral health crisis**

HB 3091 requires CCOs and commercial health plans to provide for a “behavioral health assessment” to individuals in behavioral health crisis and the follow-up services determined medically necessary by that assessment; care necessary to transition the patient to lower levels of care; and coordinated care and case management as defined by the Department of Consumer and Business Services (DCBS).

CCOs already pay for these services. Commercial insurance, however, has traditionally not paid for these services or only done so under very narrow circumstances when a licensed clinician is able to perform the assessment. Therefore, this bill increases access to important post-crisis and post-suicide-attempt services, especially among the commercially insured population in non-urban areas.

**HB 2175 – Sobering facility expansion**

HB 2936 (2015) codified the requirements for a legal “sobering facility” and limited the total number of sobering facilities in Oregon to six. HB 2175 lifts that cap now that sobering facilities have proven to be a safe alternative to emergency departments or jail.

**HB 2176 – Sobering facility funding**

This is a companion bill to HB 2175. HB 2176 allows a county to use up to 10 percent of its Mental Health Alcoholism and Drug Services Account allocation from the state to provide funding for sobering facilities.

**SB 252 – Hardship drivers’ permits for gambling treatment**

Allows a qualifying individual with suspended driving privileges to receive a hardship permit for the purpose of driving to and from gambling addiction treatment programs.

**SB 1041 – Study on drug and alcohol treatment spending and outcomes**

Directs the Oregon Criminal Justice Commission to study and report on the expenditure of public dollars related to drug and alcohol treatment, in coordination with OHA, the Department of Corrections (DOC), OYA and others.
Behavioral health – Oregon State Hospital

HB 2302 (OHA bill) – Patient assistance in applying for federal benefits

Oregon State Hospital (OSH) staff can sign patients up for Medicaid before they leave OSH. This bill expands on that authority to allow OSH staff to sign patients up for Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Supplemental Nutrition Assistance Program (SNAP), and other state and federal benefits. This will allow patients to have a safety net in place upon discharge.

HB 2307 (OHA bill) – Statute clarity on forensic evaluations

Clarifies statute to specify that an “aid and assist” evaluation is not necessarily required to conduct a “guilty except for insanity” evaluation. The GEI evaluation determines if someone was insane at the time of their crime; the aid and assist evaluation determines if the defendant is too mentally ill to participate in their trial.

HB 2308 (OHA bill) – Credit for time in jail

When someone is sent to OSH for aid and assist restoration services, statute specifies they can be held for only three years or the maximum sentence their accused crime carries, whichever is shorter. HB 2308 gives patients credit for the time they’ve been held in jail leading up to being transferred to OSH. This is not only a civil rights issue, but will help OSH reduce the length of stay for patients sent under this type of court order. HB 2308 specifies that the credit does not apply to murder, aggravated murder, or any Measure 11 crime.

HB 2309 (OHA bill) – Paperwork reduction

When a person is accused of a crime but found too mentally ill to stand trial, they are ordered to OSH for an “aid and assist” evaluation and treatment. Once there, a forensic evaluator will fill out a very lengthy evaluation form that includes a full medical history. As the statutes and rules operate now, that evaluator has to fill out that full form every time the patient is re-evaluated. HB 2309 amends statute so that the first evaluation must include the full medical history and a thorough evaluation, but subsequent evaluations may simply be updates, or “progress reports.” This is a paperwork reduction measure.

SB 65 – Consolidating Supervision of those guilty except for insanity

When a person has successfully plead “guilty except for insanity,” they go to OSH for psychiatric treatment. For individuals who committed Tier 1 crimes (murder, arson, rape, etc.), the Psychiatric Security Review Board (PSRB) takes over jurisdiction of that person’s release into the community, placement, and supervision, in addition to holding hearings to determine these matters. For all other crimes, the State Hospital Review Panel (SHRP) assumes jurisdiction and performs all of the functions that PSRB does for Tier 1 crimes.

SB 65 eliminates the SHRP’s jurisdiction over Tier 2 crimes and transfers responsibility to PSRB.

SB 65 also directs PSRB to develop a restorative justice program to assist in the recovery of crime victims. SB 65 specifies that documents or communications used in this program are confidential and may not be disclosed or used by PSRB for purposes unrelated to the program, are inadmissible in subsequent proceedings, and are exempt from public disclosure. The bill authorizes PSRB to contract with a nonprofit entity to administer the program.
Marijuana regulation

**SB 1057 – OLCC tracking system and expansion of authorities**

Directs OHA to enter into an agreement with the Oregon Liquor Control Commission (OLCC) to use the METRC Cannabis System (CTS) to track medical marijuana production, processing and transfers. It also directs OHA to impose a fee on medical marijuana registrants to pay costs associated with using CTS. The bill sets a deadline of July 1, 2018, for OHA registrants to enter CTS.

The bill also transfers the regulation of labeling marijuana items and products from OHA to OLCC, and directs OHA to establish a database of Oregon Medical Marijuana Program (OMMP) registry cardholder and marijuana grow site information for the purpose of allowing access by OLCC and the Department of Revenue (DOR). The bill clarifies the number of mature and immature plants and usable marijuana that a registry identification cardholder and designated primary caregiver may jointly possess.

**HB 2198 – Oregon Cannabis Commission**

HB 2198 establishes within OHA a nine-member Oregon Cannabis Commission appointed by the Governor and confirmed by the Senate. The commission is tasked with determining a framework for the future governance of the Oregon Medical Marijuana Program, determining steps the state must take to ensure that research on cannabis is being conducted for public purposes, and developing a long-term strategic plan ensuring medical marijuana remains a therapeutic option and affordable for medical marijuana patients. The commission also advises OHA and OLCC on the administration of the medical marijuana program.

HB 2198 specifies that marijuana retailers and dispensaries may be located between 500 and 1,000 feet of a school if OLCC determines there is a physical or geographic barrier “preventing children from traversing to” the retailer or dispensary. The bill also abolishes the Advisory Committee on Medical Marijuana.

Public health

**HB 2310 (OHA bill) – Modernization of public health system**

HB 2310 directs OHA to establish accountability metrics to monitor progress toward statewide public health goals. It clarifies that the local public health funding formula is limited to moneys made available by the state to OHA for funding foundational capabilities and programs. It also gives OHA the ability to distribute funds through means other than the local public health funding formula in the event funds distributed through this process are insufficient. The bill also clarifies requirements for county relinquishment of public health authority.

In addition to the policy bill, OHA received $5 million from the Legislature to begin modernizing Oregon’s public health system.

**SB 52 (OHA bill) – EMS Patient Encounter Data System**

SB 52 creates a complete and reliable data tracking system for patient encounter data. It requires licensed ambulance service agencies and EMS providers to report patient encounter data electronically to the Oregon EMS Information System (OR-EMSIS). It also establishes uses for data shared between OTR and OR-EMSIS including quality improvement, epidemiological assessment and investigation, public health critical response planning, prevention activities, and research by trauma centers.
SB 53 (OHA bill) – In-home care and hospice licensing fees

The Health Facility Licensing & Certification program of the Public Health Division is responsible for licensing in-home care agencies and hospices. SB 53 allows the program to increase of fees so that it may be self-supporting through the next two biennia. The licensure fees for in-home care agencies have not been updated since 2007, and hospice licenses have not been updated since 2009.

HB 2301 (OHA bill) – Health Licensing Office and public health updates

HB 2301 streamlines administration in the Health Licensing Office and ensures consistency in regards to confidentiality laws in this process. The bill divides the professions and boards under the Health Licensing Office into two categories for the purposes of confidentiality: health-related professions and trade-related professions.

The bill also makes minor changes to: membership on trauma advisory boards and the State Emergency Medical Service Committee; Oregon’s cancer registry to align with national standards; qualifications to register as environmental health specialist and environmental health specialist trainee; and a sunset clause for healthcare-acquired infection reporting.

HB 3391 – Reproductive health

HB 3391 requires Oregon-based health benefit plans, as defined in ORS 743B.005, to cover a suite of preventive health services, without any cost-sharing requirements, similar to those defined in the Affordable Care Act’s preventive services coverage requirements. These services include well-woman care; counseling and screening for STIs and a variety of health conditions; breastfeeding support; abortion; and counseling on contraceptive drugs, devices, and products.

SB 754 — Raise purchase age of tobacco to 21

SB 754 increases the minimum age to 21 for purchase tobacco and nicotine. It also establishes a spectrum of fines ranging from $50 to $1,000 for individuals or businesses that distribute or sell tobacco-related products or inhalant delivery systems (e-cigarettes) to persons under 21 years of age.

HB 3440 — Comprehensive opioid prevention

HB 3440 enables pharmacists to dispense naloxone (aka Narcan, an opioid overdose rescue medication) and provides immunity from liability for good-faith distribution and administration of naloxone. It also requires pharmacies to report de-identified naloxone dispensing information to the OHA Prescription Drug Monitoring Program. It removes insurers’ ability to require prior authorization for an initial 30-day supply of opioid/opiate withdrawal treatment medication, and specifies that people taking drug abuse/dependency medication may not be denied entry into a specialty court in Oregon.

The bill also requires OHA to report at least quarterly on opioid and opiate deaths and overdoses to the Governor and all local health departments. Additionally, the bill creates an annual report to interim legislative health care committees on opioid and opiate deaths and overdoses as well as areas of the state that lack sufficient treatment resources for opioid/opiate abuse or dependency. HB 3440 also calls for the development and regular updating of a web-based, searchable inventory of opioid/opiate abuse or dependency treatment providers and their capacity for treatment.

The bill also makes changes to the Prescription Drug Monitoring Program (PDMP): expands access to medical or pharmacy directors and their staff; authorizes interstate data sharing; authorizes sharing of data with health professional regulatory boards; requires persons requesting de-identified PDMP data to enter into a data use agreement with OHA; and requires state boards to provide PDMP with licensing information of controlled substance prescribers or dispensers upon license renewal.
Other bills of interest

**SB 46 (OHA bill) – PEBB and OEBB oversight authority**

Senate Bill 46 removes statutory citations to the Public Employees Benefit Board (PEBB) and Oregon Educators Benefit Board (OEBB) from the Oregon Insurance Code and moves them to the statutes governing PEBB and OEBB. This bill provides clean-up and removes potential confusion that PEBB and OEBB plans are subject to Insurance Code mandates and other provisions.

**SB 934 – Increased spending on primary care**

SB 934’s main objective is to increase CCOs’, commercial insurers’ and PEBB and OEBB’s spending on primary care to 12 percent by 2023. Each group currently spending below 12 percent must increase such spending by 1 percentage point each year until the target is achieved. In addition, it requires carriers’ participation in the federal CPC+ program to offer similar payment methodologies to all state-designated patient-centered primary care homes.

SB 934 also requires the carriers to report to DCBS annually regarding their primary care spending and OHA must work with DCBS to publish the findings.

The bill directs OHA to continue to staff the Primary Care Payment Reform Collaborative, which will assist in the implementation of a Primary Care Transformation Initiative. The Collaborative shall report annually to the Oregon Health Policy Board and the Legislature.

**HB 2303 (OHA bill) – HPA housekeeping**

HB 2303 changes the CCO primary care spend reporting date from December 31 to October 1 of each year. It also deletes outdated references to Office of Health Policy and Research and Community-based Health Care Initiative and specifies that the OHA Director’s designee can appoint members to the Advisory Committee on Physician Credentialing Information.

**HB 3261 – Primary care incentive funds**

HB 3261 requires the Oregon Health Policy Board and OHA to collaborate with OHSU and the Office of Rural Health to assess needs and evaluate the effectiveness of health care provider incentive programs. These findings will be reported to the Legislature each odd-numbered year. The bill also requires OHA to enter into an agreement with OHSU to administer training programs, and it specifies the distribution of incentive funds for this biennium.
OHA

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