

CHAPTER 94

AN ACT

HB 4071

Relating to health care for Pacific Islanders legally residing in Oregon under a Compact of Free Association; and declaring an emergency.

Whereas shortly after World War II, the United States assumed administration of the Trust Territory of the Pacific Islands, under a United Nations strategic trusteeship that provided for American control over development of the islands' economies and international relations and gave the United States military access to territory within the islands; and

Whereas the United States was allowed by the United Nations to treat the islands as a strategic trust territory, and so the United States Atomic Energy Commission established the Pacific Proving Grounds in the Marshall Islands and tested 67 atmospheric nuclear weapons between 1946 and 1958; and

Whereas some of the testing in the trustee territories caused nuclear fallout on a number of the islands, including several that were inhabited; and

Whereas some island citizens were residing in the vicinity of the Pacific Proving Grounds, and their descendants continue to exhibit medical conditions that may have resulted from exposure to the nuclear fallout that is still measurable on some islands; and

Whereas the area now includes three groups of islands, called the Compact of Free Association (COFA) islands, that are independent nations and include the Republic of Palau, the Republic of the Marshall Islands and the Federated States of Micronesia; and

Whereas, notwithstanding the COFA islands' independent nation status, the economies of these islands are heavily dependent on United States government grants under the COFA treaty and the United States military presence; and

Whereas treaties arising out of the special and unique relationship that has existed between the three COFA island nations and the United States allow island citizens to enter the United States without work permits or visas to study, live and work and to access benefits available to United States citizens, such as driver licenses and health care; and

Whereas, since the COFA treaties went into effect in 1986, stagnant island economies have made it difficult for island citizens to find jobs or obtain a decent education, so island citizens have moved to the United States for education and work opportunities; and

Whereas COFA island citizens volunteer to serve in the United States armed services at a higher per capita rate than United States citizens; and

Whereas, while the United States retains a strong military and economic presence in the COFA islands, recently some states and the United States Congress have unilaterally reduced some benefits, including access to driver licenses and health care,

for the COFA island citizens residing in the United States; and

Whereas the COFA island families residing in this country should be fairly treated in recognition of the special and unique relationship between the COFA islands and the United States and of the need for the United States to maintain a strong military and economic presence in the COFA islands; and

Whereas many of the benefits and services denied to COFA island citizens are administered by states, and the United States Congress has not taken steps to extend federal government services to COFA island citizens residing in the United States; now, therefore,

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

SECTION 1. Sections 1 to 5 of this 2016 Act establish the COFA Premium Assistance Program to be administered by the Department of Consumer and Business Services. The purpose of the program is to provide financial assistance to enable low-income citizens of the island nations in the Compact of Free Association who are residing in Oregon to purchase qualified health plan coverage through the health insurance exchange and to pay out-of-pocket costs associated with the coverage.

SECTION 2. As used in sections 1 to 5 of this 2016 Act:

(1) "Advance premium tax credit" means the premium assistance amount determined in accordance with 26 U.S.C. 36B.

(2) "COFA citizen" means an individual who is a citizen of:

- (a) The Republic of the Marshall Islands;
- (b) The Federated States of Micronesia; or
- (c) The Republic of Palau.

(3) "Health insurance exchange" or "exchange" has the meaning given that term in ORS 741.300.

(4) "Income" means the modified adjusted gross income that is attributed to an individual in determining the individual's eligibility for advance premium tax credits.

(5) "In-network provider" means a health care provider or group of providers that directly contract with an insurer to provide health benefits covered by a health benefit plan offered by the insurer.

(6) "Open enrollment period" means the period during which a person may enroll in a qualified health plan.

(7) "Out-of-pocket costs" means copayments, coinsurance, deductibles and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices and other health benefits that are covered by the plan and that are rendered by in-network providers.

(8) "Premium cost" means an individual's premium for a qualified health plan less the

amount of the individual's advance premium tax credit.

(9) "Qualified health plan" means a health benefit plan, as defined in ORS 743B.005, offered through the health insurance exchange.

(10) "Resident" means a person who is domiciled in this state.

(11) "Special enrollment period" means a period during which a person who has not done so during the open enrollment period may enroll in a qualified health plan through the exchange if the person meets specified requirements.

SECTION 3. (1) An individual is eligible for the COFA Premium Assistance Program if the individual:

- (a) Is a resident;
- (b) Is a COFA citizen;
- (c) Enrolls in a qualified health plan;
- (d) Has income that is less than 138 percent of the federal poverty guidelines; and
- (e) Qualifies for an advance premium tax credit toward the cost of the individual's qualified health plan.

(2) Within the limits of moneys in the COFA Premium Assistance Program Fund, the Department of Consumer and Business Services shall pay the premium cost for a qualified health plan and the out-of-pocket costs for the coverage provided by the plan for an individual who meets the criteria in subsection (1) of this section.

(3) The department may disenroll a participant from the program if the participant:

- (a) No longer meets the eligibility criteria specified in subsection (1) of this section;
- (b) Fails, without good cause, to comply with procedural or documentation requirements established by the department in accordance with subsection (4) of this section;

(c) Fails, without good cause, to notify the department of a change of address in a timely manner;

(d) Withdraws the participant's application or requests termination of coverage; or

(e) Performs an act, practice or omission that constitutes fraud and, as a result, an insurer rescinds the participant's policy for the qualified health plan.

(4) The department shall establish:

(a) Application, enrollment and renewal processes for the COFA Premium Assistance Program;

(b) The qualified health plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the department to administer the program;

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health insurance exchange; and

(e) A comprehensive community education and outreach campaign, working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the program.

SECTION 4. (1) The Department of Consumer and Business Services shall appoint an advisory committee that includes, but is not limited to, insurers and representatives of communities of residents from the island nations in the Compact of Free Association. The committee shall advise the department in the development, implementation and operation of the COFA Premium Assistance Program as described in section 3 of this 2016 Act.

(2) Members of the advisory committee are not entitled to compensation, but may be reimbursed, in the manner and amounts provided for in ORS 292.495, for actual and necessary travel and other expenses incurred by them in the performance of their official duties. Claims for expenses incurred in performing functions of the committee shall be paid out of funds appropriated to the department for administering the COFA Premium Assistance Program.

SECTION 5. The COFA Premium Assistance Program Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the COFA Premium Assistance Program Fund are continuously appropriated to the Department of Consumer and Business Services for the payment of premium costs and out-of-pocket costs through the COFA Premium Assistance Program and the costs of the department in administering the program. Interest earned by the fund shall be credited to the fund.

SECTION 6. No later than December 31, 2017, the Department of Consumer and Business Services shall report to the interim committees of the Legislative Assembly related to health care on the implementation of the COFA Premium Assistance Program established under sections 1 to 5 of this 2016 Act, including, but not limited to:

(1) The number of individuals participating in the program;

(2) The actual costs of the program compared to predicted costs;

(3) The results of the community education and outreach campaign;

(4) The amount remaining in the COFA Premium Assistance Program Fund; and

(5) The amount of moneys needed to continue the program through the end of the 2015-2017 biennium.

SECTION 7. (1) The community education and outreach campaign conducted by the Department of Consumer and Business Services in

accordance with section 3 of this 2016 Act shall begin no later than September 1, 2016.

(2) The first open enrollment period for the COFA Premium Assistance Program established under sections 1 to 5 of this 2016 Act shall begin no later than November 1, 2016.

SECTION 8. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Consumer and Business Services, for the biennium beginning July 1, 2015, out of the General Fund, the amount of \$1,823,000, which shall be deposited in the COFA Premium Assistance Program Fund and may be expended for the COFA Premium Assistance Program established under sections 1 to 5 of this 2016 Act.

SECTION 9. Notwithstanding any other law limiting expenditures, the amount of \$1,823,000 is established for the biennium beginning July 1, 2015, as the maximum limit for payment of expenses for the COFA Premium Assistance Program from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Consumer and Business Services.

SECTION 10. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

Approved by the Governor April 4, 2016
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