

Feds OK continuing changes to the Oregon Health Plan

No extra money for reforms

By **SHERRI BURI McDONALD** and **SAUL HUBBARD**
The Register-Guard

EUGENE — The federal government has approved Oregon's request to continue innovating the Oregon Health Plan for the next five years, but it's not giving any extra money to further advance the reforms, the Centers for Medicare & Medicaid Services has announced.

The federal approval provides some degree of certainty for the state health plan in the face of a new administration that has promised to repeal and replace the Affordable Care Act. The approval comes a week before President-elect Donald Trump takes office.

The Affordable Care Act, often referred to as Obamacare, made sweeping changes to health care in the United States, including expanding Medicaid programs to more people in Oregon and other states that chose to do so. The Oregon Health Plan, Oregon's version of Medicaid, pays for health care for low-income and disabled Oregonians.

Trump and the Republican-led Congress still would be able to change the Oregon Health Plan at a later date through a change in federal law. But the waiver request approved Friday would make it more complicated for them to do that.

Still unanswered, however, is whether the federal govern-

ment will provide, or whether the state will be able to scrape together, enough money to continue the same level of service to the more than 1.1 million patients now covered by the Oregon Health Plan. That's roughly one quarter of all Oregonians.

Bigger share

Starting this summer, Oregon must start paying a bigger share of the Oregon Health Plan's budget as the federal government reduces its funding. Democratic Gov. Kate Brown and leading state lawmakers say the state won't be able to do that without raising taxes.

Still, state leaders and some health care providers presented Friday's waiver renewal, even without any extra federal funds, as a big victory for Oregon.

"In these times of uncertainty, the waiver provides continuity, security and coverage for Oregonians on the Oregon Health Plan," Gov. Brown said in a conference call with reporters Friday. "For these Oregonians, who are struggling to make ends meet, it will enable them to continue to receive the necessary and comprehensive health care through the program."

But state officials acknowledged that the waiver does not protect the Oregon Health Plan from major changes during the next five years.

"If Congress makes changes to the Medicaid program, we still have to comply with those changes," said Jeremy Vandehey, Brown's top health care adviser.

For decades, the federal government has sent massive funding to the states for their Medicaid programs.

Oregon spent \$6.5 billion on the Oregon Health Plan in the last fiscal year. About 80 percent of that was federal money and 20 percent was state money, Oregon Health Authority figures show.

Spending is up

Spending is up from about \$3 billion in fiscal year 2012, when the federal government footed 63 percent of the bill, and the state paid 37 percent.

Oregon wanted more flexibility to try new ways of delivering health care to Oregon Health Plan patients, so it has obtained "waivers" from the federal government, exempting the state from the regular federal rules, and setting up alternative rules for Oregon.

In 2012, a five-year waiver from the federal government provided Oregon an extra \$2 billion — above the regular Medicaid funding — to launch reforms to the Oregon Health Plan, including the creation of Coordinated Care Organizations to manage services for Oregon Health Plan patients.

Oregon's 16 CCOs are trying to improve patients' health while curbing the rise of costs, by making sure patients have a regular medical doctor, a dentist, and help for mental health or substance abuse.

The waiver gives Oregon and its CCOs permission to use some money on nonmedical services, such as community health workers to work in the homes of patients with complex medical issues.

Justices to hear free speech clash over offensive trademarks

The Slants, Redskins are under scrutiny

By **SAM HANANEL**
Associated Press

WASHINGTON — The Slants aren't exactly a household name when it comes to music, but the Asian-American rock band has certainly made its mark in the legal world.

The Portland-based group has spent years locked in a First Amendment battle with the government, which refuses to register a trademark for the band's name because it's considered offensive to Asians.

That fight will play out Wednesday in the nation's highest court as the justices consider whether a law barring disparaging trademarks violates the band's free-speech rights.

The case has drawn attention because it could affect the Washington Redskins in a similar fight to keep the football team's lucrative trademark protection. The government canceled the team's trademarks last year after finding they are disparaging to Native Americans.

For Slants founder Simon Tam, the name was chosen not to offend, but to take on stereotypes about Asian culture. He says the band is reclaiming a term once used as an insult and transforming it into a statement of cultural pride.

"Words aren't equipped with venomous impact on their own," he said in an interview. "They have to be tied to



Anthony Pidgeon/Redferns
Portrait of Asian-American band The Slants (Left to right: Joe X Jiang, Ken Shima, Tyler Chen, Simon "Young" Tam, Joe X Jiang) in Old Town Chinatown in Portland on 2015.

motive and rooted in context." But the U.S. Patent and Trademark Office didn't see it that way. It refused to register the name in 2011, saying a trademark can be disparaging even if it's meant to be used in a positive light.

A divided federal appeals court handed the band a victory four years later, ruling that the law prohibiting offensive trademarks is unconstitutional.

"Whatever our personal feelings about the mark at issue here, or other disparaging marks, the First Amendment forbids government regulators to deny registration because they find the speech likely to offend others," Judge Kimberly Moore said for the majority.

The Obama administration has urged the Supreme Court to overturn that ruling. In legal briefs, the Justice Department argues that the law does not restrict speech, but declines to associate the federal government with "racial epithets, religious insults and

profanity as trademarks."

Trademarks

If the decision is upheld, the government warns it will be forced "to register, publish and transmit to foreign countries marks containing crude references to women based on parts of their anatomy; the most repellent racial slurs and white supremacist slogans; and demeaning illustrations of the prophet Mohammed and other religious figures."

Yet the trademark office has approved plenty of crude and offensive trademarks in the past. Those include: Afro Saxons and Dago Swagg clothing, Baked By A Negro bakery products, Retardipedia and Celebretards entertainment services, and the hip-hop band N.W.A., an acronym that includes a racial slur against African-Americans.

"If their intent is to curtail hate speech, it's not working," Tam says. "Trademark registration is not the mechanism to address those types of things."

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