

House Bill 2192

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Consumer and Business Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies formula for assessment by Oregon Medical Insurance Pool. Expands types of entities subject to assessment by Oregon Medical Insurance Pool to include third party administrators for self-insured employers.

A BILL FOR AN ACT

1
2 Relating to Oregon Medical Insurance Pool assessment; creating new provisions; and amending ORS
3 735.605, 735.610, 735.614, 735.650, 735.756, 744.704 and 744.714.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. "Covered life" means a subscriber, policyholder, certificate holder, spouse,**
7 **dependent child or any other individual insured under an insurance policy or whose benefits**
8 **are administered by a third party administrator.**

9 **SECTION 3. ORS 735.605 is amended to read:**

10 735.605. As used in ORS 735.600 to 735.650:

11 (1) "Benefits plan" means the coverages to be offered by the pool to eligible persons pursuant
12 to ORS 735.600 to 735.650.

13 (2) "Board" means the Oregon Medical Insurance Pool Board.

14 (3) "Insured" means any individual resident of this state who is eligible to receive benefits from
15 any insurer.

16 (4) "Insurer" means:

17 (a) Any insurer as defined in ORS 731.106 or fraternal benefit society as defined in ORS 748.106
18 required to have a certificate of authority to transact health insurance business in this state, and
19 any health care service contractor as defined in ORS 750.005, issuing medical insurance in this state
20 on or after September 27, 1987.

21 (b) Any reinsurer reinsuring medical insurance in this state on or after September 27, 1987.

22 (c) To the extent consistent with federal law, any self-insurance arrangement covered by the
23 Employee Retirement Income Security Act of 1974, as amended, that provides health care benefits
24 in this state on or after September 27, 1987.

25 (d) All self-insurance arrangements not covered by the Employee Retirement Income Security
26 Act of 1974, as amended, that provides health care benefits in this state on or after September 27,
27 1987.

28 (5) "Medical insurance" means any health insurance benefits payable on the basis of hospital,
29 surgical or medical expenses incurred and any health care service contractor subscriber contract.
30 Medical insurance does not include accident only, disability income, hospital confinement indemnity,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 dental or credit insurance, coverage issued as a supplement to liability insurance, coverage issued
 2 as a supplement to Medicare, insurance arising out of a workers' compensation or similar law, au-
 3 tomobile medical-payment insurance or insurance under which benefits are payable with or without
 4 regard to fault and which is statutorily required to be contained in any liability insurance policy
 5 or equivalent self-insurance.

6 (6) "Medicare" means coverage under Part A, Part B and Part D of Title XVIII of the Social
 7 Security Act, 42 U.S.C. [1395] **1395c** et seq., as amended.

8 (7) "Plan of operation" means the plan of operation of the pool, including articles, bylaws and
 9 operating rules, adopted by the board pursuant to ORS 735.600 to 735.650.

10 (8) "Pool" means the Oregon Medical Insurance Pool as created by ORS 735.610.

11 (9) "Reinsurer" means any insurer as defined in ORS 731.106 from whom any person providing
 12 medical insurance to Oregon insureds procures insurance for itself in the insurer, with respect to
 13 all or part of the medical insurance risk of the person. **"Reinsurer" includes an insurer providing
 14 insurance against the risk of economic loss.**

15 (10) "Self-insurance arrangement" means any plan, program, contract or any other arrangement
 16 under which one or more employers, unions or other organizations provide health care services or
 17 benefits to their employees or members in this state, either directly or indirectly through a trust
 18 or third party administrator, unless the health care services or benefits are provided by an insur-
 19 ance policy issued by an insurer other than a self-insurance arrangement.

20 (11) **"Third party administrator" means any person required to obtain a license pursuant
 21 to ORS 744.702.**

22 **SECTION 4.** ORS 735.610 is amended to read:

23 735.610. (1) There is created in the Department of Consumer and Business Services the Oregon
 24 Medical Insurance Pool Board. The board shall establish the Oregon Medical Insurance Pool and
 25 otherwise carry out the responsibilities of the board under ORS 735.600 to 735.650.

26 (2) The board shall consist of nine individuals, eight of whom shall be appointed by the Director
 27 of the Department of Consumer and Business Services. The director [*of the Department of Consumer
 28 and Business Services*] or the director's designee shall be [*a*] **the ninth** member of the board. The
 29 chair of the board shall be elected from among the members of the board. The board shall at all
 30 times, to the extent possible, include at least one representative of a domestic insurance company
 31 licensed to transact health insurance, one representative of a domestic not-for-profit health care
 32 service contractor, one representative of a health maintenance organization, one representative of
 33 reinsurers and two members of the general public who are not associated with the medical profes-
 34 sion, a hospital or an insurer.

35 (3) The director may fill any vacancy on the board by appointment.

36 (4) The board shall have the general powers and authority granted under the laws of this state
 37 to insurance companies with a certificate of authority to transact health insurance and the specific
 38 authority to:

39 (a) Enter into such contracts as are necessary or proper to carry out the provisions and pur-
 40 poses of ORS 735.600 to 735.650 including the authority to enter into contracts with similar pools
 41 of other states for the joint performance of common administrative functions, or with persons or
 42 other organizations for the performance of administrative functions;

43 (b) Recover any assessments [*for, on behalf of, or against*] **from** insurers **and reinsurers**;

44 (c) Take such legal action as is necessary to avoid the payment of improper claims against the
 45 pool or the coverage provided by or through the pool;

1 (d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, insurance
 2 producers' referral fees, claim reserves or formulas and perform any other actuarial function ap-
 3 propriate to the operation of the pool. Rates may not be unreasonable in relation to the coverage
 4 provided, the risk experience and expenses of providing the coverage. Rates and rate schedules may
 5 be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take
 6 into consideration appropriate risk factors in accordance with established actuarial and underwrit-
 7 ing practices;

8 (e) Issue policies of insurance in accordance with the requirements of ORS 735.600 to 735.650;

9 (f) Appoint [*from among insurers*] appropriate actuarial and other committees as necessary to
 10 provide technical assistance in the operation of the pool, policy and other contract design, and any
 11 other function within the authority of the board;

12 (g) Seek advances to effect the purposes of the pool; and

13 (h) Establish rules, conditions and procedures for reinsuring risks under ORS 735.600 to 735.650.

14 (5) Each member of the board is entitled to compensation and expenses as provided in ORS
 15 292.495.

16 (6) The director [*of the Department of Consumer and Business Services*] shall adopt rules, as
 17 provided under ORS chapter 183, implementing policies recommended by the board for the purpose
 18 of carrying out ORS 735.600 to 735.650.

19 (7) In consultation with the board, the director shall employ such staff and consultants as may
 20 be necessary for the purpose of carrying out responsibilities under ORS 735.600 to 735.650.

21 **SECTION 5.** ORS 735.610, as amended by section 4 of this 2009 Act, is amended to read:

22 735.610. (1) There is created in the Department of Consumer and Business Services the Oregon
 23 Medical Insurance Pool Board. The board shall establish the Oregon Medical Insurance Pool and
 24 otherwise carry out the responsibilities of the board under ORS 735.600 to 735.650.

25 (2) The board shall consist of nine individuals, eight of whom shall be appointed by the Director
 26 of the Department of Consumer and Business Services. The director or the director's designee shall
 27 be the ninth member of the board. The chair of the board shall be elected from among the members
 28 of the board. The board shall at all times, to the extent possible, include at least one representative
 29 of a domestic insurance company licensed to transact health insurance, one representative of a do-
 30 mestic not-for-profit health care service contractor, one representative of a health maintenance or-
 31 ganization, one representative of reinsurers and two members of the general public who are not
 32 associated with the medical profession, a hospital or an insurer.

33 (3) The director may fill any vacancy on the board by appointment.

34 (4) The board shall have the general powers and authority granted under the laws of this state
 35 to insurance companies with a certificate of authority to transact health insurance and the specific
 36 authority to:

37 (a) Enter into such contracts as are necessary or proper to carry out the provisions and pur-
 38 poses of ORS 735.600 to 735.650 including the authority to enter into contracts with similar pools
 39 of other states for the joint performance of common administrative functions, or with persons or
 40 other organizations for the performance of administrative functions;

41 (b) Recover any assessments from insurers, [*and*] reinsurers **and third party administrators**;

42 (c) Take such legal action as is necessary to avoid the payment of improper claims against the
 43 pool or the coverage provided by or through the pool;

44 (d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, insurance
 45 producers' referral fees, claim reserves or formulas and perform any other actuarial function ap-

1 appropriate to the operation of the pool. Rates may not be unreasonable in relation to the coverage
 2 provided, the risk experience and expenses of providing the coverage. Rates and rate schedules may
 3 be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take
 4 into consideration appropriate risk factors in accordance with established actuarial and underwrit-
 5 ing practices;

6 (e) Issue policies of insurance in accordance with the requirements of ORS 735.600 to 735.650;

7 (f) Appoint appropriate actuarial and other committees as necessary to provide technical as-
 8 sistance in the operation of the pool, policy and other contract design, and any other function within
 9 the authority of the board;

10 (g) Seek advances to effect the purposes of the pool; and

11 (h) Establish rules, conditions and procedures for reinsuring risks under ORS 735.600 to 735.650.

12 (5) Each member of the board is entitled to compensation and expenses as provided in ORS
 13 292.495.

14 (6) The director shall adopt rules, as provided under ORS chapter 183, implementing policies
 15 recommended by the board for the purpose of carrying out ORS 735.600 to 735.650.

16 (7) In consultation with the board, the director shall employ such staff and consultants as may
 17 be necessary for the purpose of carrying out responsibilities under ORS 735.600 to 735.650.

18 **SECTION 6.** ORS 735.614 is amended to read:

19 735.614. (1) If the Oregon Medical Insurance Pool Board determines at any time that funds in
 20 the Oregon Medical Insurance Pool Account are or will become insufficient for **timely** payment of
 21 expenses of the pool [*in a timely manner*], the board shall determine the amount of funds needed and
 22 shall impose [*and collect assessments against insurers, as provided in this section, in the amount of the*
 23 *funds determined to be needed.*] **upon and collect from insurers and reinsurers assessments**
 24 **calculated in accordance with subsection (2) of this section.**

25 (2) [*Each insurer's assessment shall be determined by multiplying the total amount to be assessed*
 26 *by a fraction, the numerator of which equals the number of Oregon insureds and certificate holders*
 27 *insured or reinsured by each insurer, and the denominator of which equals the total of all Oregon in-*
 28 *sureds and certificate holders insured or reinsured by all insurers, all determined as of March 31 each*
 29 *year.*] **The board shall calculate the assessment of each insurer and reinsurer based on the**
 30 **total amount needed to ensure timely payment of pool expenses. The board will assess each**
 31 **insurer and reinsurer based on its fractional share of all covered lives in Oregon as of March**
 32 **31 each year.**

33 (3) [*The board shall ensure that each insured and certificate holder is counted only once with re-*
 34 *spect to any assessment. For that purpose, the board shall require each insurer that obtains reinsurance*
 35 *for its insureds and certificate holders to include in its count of insureds and certificate holders all*
 36 *insureds and certificate holders whose coverage is reinsured in whole or part. The board shall allow*
 37 *an insurer who is a reinsurer to exclude from its number of insureds those that have been counted by*
 38 *the primary insurer or the primary reinsurer for the purpose of determining its assessment under this*
 39 *subsection.*] **With respect to an assessment, the board shall count each covered life only once.**
 40 **For that purpose, the board shall obtain counts from:**

41 (a) **An insurer of each covered life under all fully or less than fully insured employee**
 42 **health benefit plans of the insurer;**

43 (b) **A third party administrator of each covered life under a self-insurance plan using the**
 44 **third party administrator; and**

45 (c) **A reinsurer of each covered life reinsured under self-insurance plans that do not use**

1 **a third party administrator.**

2 (4) **If an individual is covered under a self-insurance plan that does not use a third party**
 3 **administrator or the board cannot identify a third party administrator for the plan, and the**
 4 **individual is reinsured by a reinsurer, the board shall assess the reinsurer for that individual.**

5 [(4)] (5) Each insurer **or reinsurer** shall pay its assessment as required by the board.

6 [(5)] (6) If assessments exceed the amounts actually needed, the excess shall be held and in-
 7 vested and, with the earnings and interest, used by the board to offset future net losses or to reduce
 8 pool premiums. For purposes of this subsection, "future net losses" includes reserves for claims in-
 9 curred but not reported.

10 [(6)] (7) *[Each insurer's proportion of participation in the pool shall be determined by the board]*
 11 **The board shall determine the fractional share for each insurer and reinsurer of all covered**
 12 **lives in Oregon** based on annual statements and other reports deemed necessary by the board and
 13 filed by the insurer **or reinsurer** with the board **or with the Department of Consumer and**
 14 **Business Services.** The board may use any reasonable method of estimating the number of *[insureds*
 15 *and certificate holders of an insurer]* **covered lives** if the specific number is unknown. *[With respect*
 16 *to insurers that are reinsurers, the board may use any reasonable method of estimating the number of*
 17 *persons insured by each reinsurer.]*

18 [(7)] (8) The board may abate or defer, in whole or in part, the assessment *[of an insurer if, in*
 19 *the opinion of the board,]* **calculated under subsection (2) of this section if the board determines**
 20 **that** payment of the assessment would endanger the ability of the insurer **or reinsurer** to fulfill
 21 *[the insurer's]* **its** contractual obligations. In the event an assessment *[against an insurer]* is abated
 22 or deferred in whole or in part **under this subsection**, the amount by which the assessment is
 23 abated or deferred may be assessed against the other *[insurers in a manner consistent with the basis*
 24 *for assessments set forth in this section.]* **insurers and reinsurers subject to the assessment in a**
 25 **manner consistent with subsection (2) of this section.** The insurer **or reinsurer** receiving the
 26 abatement or deferment shall remain liable to the board for the deficiency for four years.

27 [(8)] (9) The board shall abate or defer assessments authorized by this section if a court orders
 28 that assessments cannot be made applicable to reinsurers. However, if a court orders that assess-
 29 ments cannot be made applicable to reinsurers, the board may continue to assess insurers to the end
 30 of the biennium in which the determination is made.

31 [(9)] (10) Subject to the approval of the Director of the Department of Consumer and Business
 32 Services, the board may develop a program for adjusting the assessment of an insurer *[in the indi-*
 33 *vidual health benefits market based on that insurer's contribution to reducing the]* **or reinsurer based**
 34 **on the contribution of that insurer or reinsurer to reducing the demand for** enrollment in the
 35 Oregon Medical Insurance Pool. When developing the program, the board may consider, but is not
 36 limited to, the following factors:

37 (a) The *[insurer's]* level of participation **of the insurer or reinsurer;**

38 (b) Level of health benefit plan coverage offered; and

39 (c) Assumption of risk in the individual health benefits market.

40 **SECTION 7.** ORS 735.614, as amended by section 6 of this 2009 Act, is amended to read:

41 735.614. (1) If the Oregon Medical Insurance Pool Board determines at any time that funds in
 42 the Oregon Medical Insurance Pool Account are or will become insufficient for timely payment of
 43 expenses of the pool, the board shall determine the amount of funds needed and shall impose upon
 44 and collect from insurers, *[and]* reinsurers **and third party administrators** assessments calculated
 45 in accordance with subsection (2) of this section.

1 (2) The board shall calculate the assessment of each insurer, [and] reinsurer **and third party**
 2 **administrator** based on the total amount needed to ensure timely payment of pool expenses. The
 3 board will assess each insurer, [and] reinsurer **and third party administrator** based on its frac-
 4 tional share of all covered lives in Oregon as of March 31 each year.

5 (3) With respect to an assessment, the board shall count each covered life only once. For that
 6 purpose the board shall obtain counts from:

7 (a) An insurer of each covered life under all fully or less than fully insured employee health
 8 benefit plans of the insurer;

9 (b) A third party administrator of each covered life under a self-insurance plan using the third
 10 party administrator; and

11 (c) A reinsurer of each covered life reinsured under self-insurance plans that do not use a third
 12 party administrator.

13 (4) If an individual is covered under a self-insurance plan that does not use a third party ad-
 14 ministrator or the department cannot identify a third party administrator for the plan, and the in-
 15 dividual is reinsured by a reinsurer, the board shall assess the reinsurer for that individual.

16 (5) Each insurer, [or] reinsurer **and third party administrator** shall pay its assessment as re-
 17 quired by the board.

18 (6) If assessments exceed the amounts actually needed, the excess shall be held and invested
 19 and, with the earnings and interest, used by the board to offset future net losses or to reduce pool
 20 premiums. For purposes of this subsection, “future net losses” includes reserves for claims incurred
 21 but not reported.

22 (7) The board shall determine the fractional share for each insurer, [and] reinsurer **and third**
 23 **party administrator** of all covered lives in Oregon based on annual statements and other reports
 24 deemed necessary by the board and filed by the insurer, [or] reinsurer **or third party adminis-
 25 trator** with the board or with the Department of Consumer and Business Services. The board may use
 26 any reasonable method of estimating the number of covered lives if the specific number is unknown.

27 (8) The board may abate or defer, in whole or in part, the assessment calculated under sub-
 28 section (2) of this section if the board determines that payment of the assessment would endanger
 29 the ability of the insurer, [or] reinsurer **or third party administrator** to fulfill its contractual ob-
 30 ligations. In the event an assessment is abated or deferred in whole or in part under this subsection,
 31 the amount by which the assessment is abated or deferred may be assessed against the other
 32 insurers, [and] reinsurers **and third party administrators** subject to the assessment in a manner
 33 consistent with subsection (2) of this section. The insurer, [or] reinsurer **or third party adminis-
 34 trator** receiving the abatement or deferment shall remain liable to the board for the deficiency for
 35 four years.

36 (9) *[The board shall abate or defer assessments authorized by this section if a court orders that*
 37 *assessments cannot be made applicable to reinsurers. However, if a court orders that assessments can-*
 38 *not be made applicable to reinsurers, the board may continue to assess insurers to the end of the*
 39 *biennium in which the determination is made.]* **If a court finds that an assessment imposed on a**
 40 **third party administrator is in violation of federal or state law, the board shall abate or defer**
 41 **the assessment imposed upon the third party administrator but may continue to impose and**
 42 **collect assessments on insurers, reinsurers and other third party administrators.**

43 (10) Subject to the approval of the Director of the Department of Consumer and Business Ser-
 44 vices, the board may develop a program for adjusting the assessment of an insurer, [or] reinsurer
 45 **or third party administrator** based on the contribution of that insurer, [or] **reinsurer or third**

1 **party administrator** to reducing the demand for enrollment in the Oregon Medical Insurance Pool.
 2 When developing the program, the board may consider, but is not limited to, the following factors:

- 3 (a) The level of participation of the insurer, [or] reinsurer **or third party administrator**;
- 4 (b) Level of health benefit plan coverage offered; and
- 5 (c) Assumption of risk in the individual health benefits market.

6 **SECTION 8.** ORS 735.650 is amended to read:

7 735.650. (1) The following provisions of the Insurance Code shall apply to the pool to the extent
 8 applicable and not inconsistent with the express provisions of ORS 735.600 to 735.650: ORS 731.004
 9 to 731.022, 731.052 to 731.146, 731.162, 731.216 to 731.328, 742.023, 742.028, 742.046, 742.051, 742.056,
 10 743.024, 743.027, 743.028, 743.041, 743.050, 743.100 to 743.106, 743.402, 743.801, 743.803, 743.804,
 11 743.806, 743.807, 743.808, 743.811, 743.814, 743.817, 743.819, 743.821, 743.823, 743.827, 743.829, 743.834,
 12 743.837, 743.839, 743.845, 743A.084, 743A.090, **744.702, 744.704, 744.724, 744.738**, 746.005 to 746.370,
 13 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668,
 14 746.670, 746.675, 746.680 and 746.690.

15 (2) For the purposes of this section only, the pool shall be deemed an insurer, pool coverage
 16 shall be deemed individual health insurance and pool coverage contracts shall be deemed policies.

17 **SECTION 9.** ORS 744.704 is amended to read:

18 744.704. (1) The following persons are exempt from the licensing requirement for third party
 19 administrators in ORS 744.702 and from all other provisions of ORS 744.700 to 744.740 applicable to
 20 third party administrators:

21 (a) A person licensed under ORS 744.002 as an adjuster, whose activities are limited to adjust-
 22 ment of claims and whose activities do not include the activities of a third party administrator.

23 (b) A person licensed as an insurance producer as required by ORS 744.053 and authorized to
 24 transact life or health insurance in this state, whose activities are limited exclusively to the sale
 25 of insurance and whose activities do not include the activities of a third party administrator.

26 (c) An employer acting as a third party administrator on behalf of:

27 (A) Its employees;

28 (B) The employees of one or more subsidiary or affiliated corporations of the employer; or

29 (C) The employees of one or more persons with a dealership, franchise, distributorship or other
 30 similar arrangement with the employers.

31 (d) A union, or an affiliate thereof, acting as a third party administrator on behalf of its mem-
 32 bers.

33 (e) An insurer that is authorized to transact insurance in this state with respect to a policy is-
 34 sued and delivered in and pursuant to the laws of this state or another state.

35 (f) A creditor acting on behalf of its debtors with respect to insurance covering a debt between
 36 the creditor and its debtors.

37 (g) A trust and the trustees, agents and employees of the trust, when acting pursuant to the
 38 trust, if the trust is established in conformity with 29 U.S.C. 186.

39 (h) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees
 40 and employees acting pursuant to the trust, or a voluntary employees beneficiary association de-
 41 scribed in section 501(c) of the Internal Revenue Code, its agents and employees and a custodian
 42 and the custodian's agents and employees acting pursuant to a custodian account meeting the re-
 43 quirements of section 401(f) of the Internal Revenue Code.

44 (i) A financial institution that is subject to supervision or examination by federal or state fi-
 45 nancial institution regulatory authorities, or a mortgage lender, to the extent the financial institu-

1 tion or mortgage lender collects and remits premiums to licensed insurance producers or authorized
 2 insurers in connection with loan payments.

3 (j) A company that issues credit cards and advances for and collects premiums or charges from
 4 its credit card holders who have authorized collection. The exemption under this paragraph applies
 5 only if the company does not adjust or settle claims.

6 (k) A person who adjusts or settles claims in the normal course of practice or employment as
 7 an attorney at law. The exemption under this subsection applies only if the person does not collect
 8 charges or premiums in connection with life insurance or health insurance coverage.

9 *[(L) A person who acts solely as an administrator of one or more bona fide employee benefit plans*
 10 *established by an employer or an employee organization, or both, for which the Insurance Code is*
 11 *preempted pursuant to the Employee Retirement Income Security Act of 1974. A person to whom this*
 12 *paragraph applies must comply with the requirements of ORS 744.714.]*

13 *[(m)]* (L) The Oregon Medical Insurance Pool Board, established under ORS 735.600 to 735.650,
 14 and the administering insurer or insurers for the board, for services provided pursuant to ORS
 15 735.600 to 735.650.

16 *[(n)]* (m) An entity or association owned by or composed of like employers who administer par-
 17 tially or fully self-insured plans for employees of the employers or association members.

18 *[(o)]* (n) A trust established by a cooperative body formed between cities, counties, districts or
 19 other political subdivisions of this state, or between any combination of such entities, and the trust-
 20 tees, agents and employees acting pursuant to the trust.

21 *[(p)]* (o) Any person designated by the Director of the Department of Consumer and Business
 22 Services by rule.

23 (2) A third party administrator is not required to be licensed as a third party administrator in
 24 this state if the following conditions are met:

25 (a) The third party administrator has its principal place of business in another state;

26 (b) The third party administrator is not soliciting business as a third party administrator in this
 27 state; and

28 (c) In the case of any group policy or plan of insurance serviced by the third party administra-
 29 tor, the lesser of five percent or 100 certificate holders reside in this state.

30 **SECTION 10.** ORS 735.756 is amended to read:

31 735.756. (1) Of payments made to the Family Health Insurance Assistance Program by the De-
 32 partment of Human Services under ORS 735.754 (4), the department shall determine:

33 (a) The portion of a subsidy of a subsidized member that is from the General Fund; and

34 (b) The portion of other costs that is from the General Fund.

35 (2) The department shall bill the program for the amounts determined under subsection (1) of
 36 this section. The program shall forward the bill for the amount determined under subsection (1)(b)
 37 of this section to the Oregon Medical Insurance Pool Board.

38 (3) The board shall:

39 (a) Determine the amount of funds needed for the payment of other costs under subsection (1)(b)
 40 of this section; and

41 (b) Impose and collect assessments in that amount against insurers, using the methodology de-
 42 scribed in ORS 735.614 (2), *[(6) and (9)]* **(7) and (10)**.

43 (4) The board shall pay the program for the amounts determined under subsection (1)(b) of this
 44 section.

45 (5) The program shall forward to the department the amounts determined under subsection (1)

1 of this section.

2 (6) ORS 735.614 (3), [(4), (5), (7) and (8)] (5), (6), (8) and (9) applies to assessments collected
3 under this section.

4 **SECTION 11.** ORS 744.714 is amended to read:

5 744.714. A person who is exempt from the requirement of a license as a third party administrator
6 under [*ORS 744.704 because the person acts solely as an administrator of one or more bona fide em-*
7 *ployee benefit plans established by an employer or an employee organization, or both, for which the*
8 *Insurance Code is preempted pursuant to the Employee Retirement Income Security Act of 1974,]* **ORS**
9 **744.702** shall register with the Director of the Department of Consumer and Business Services an-
10 nually, verifying the status of the person as qualifying for the exemption.

11 **SECTION 12.** The amendments to ORS 735.610 and 735.614 by sections 5 and 7 of this 2009
12 Act become operative on January 1, 2011.

13