

# House Bill 2433

Sponsored by COMMITTEE ON CONSUMER PROTECTION

## 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**.

Lists factors that Director of Department of Consumer and Business Services may consider in reviewing schedules and tables of premium rates for certain health insurance plans.

Requires licensed health insurers to include statement of administrative expenses in rate filings. Requires director to approve or disapprove increases in administrative expenses.

Becomes operative April 1, 2010.

## A BILL FOR AN ACT

1  
2 Relating to health insurance; creating new provisions; and amending ORS 743.018, 750.055 and  
3 750.333.

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

5 **SECTION 1.** ORS 743.018 is amended to read:

6 743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,  
7 every insurer shall file with the Director of the Department of Consumer and Business Services all  
8 schedules and tables of premium rates for life and health insurance to be used on risks in this state,  
9 and shall file any amendments to or corrections of such schedules and tables.

10 **(2) In addition to the requirements of ORS 742.005, 743.010, 743.737, 743.760 and 743.767,**  
11 **the director may consider the factors set forth in subsection (5) of this section in deter-**  
12 **mining whether to approve, disapprove or modify the schedules and tables of premium rates**  
13 **for health insurance filed in accordance with subsection (1) of this section.**

14 [(2)] (3) Except as provided in ORS 743.737 and 743.760 and subsection [(3)] (4) of this section,  
15 a rate filing by a carrier for any of the following health benefit plans subject to ORS 743.730 to  
16 743.773 shall be available for public inspection immediately upon submission of the filing to the di-  
17 rector:

18 (a) Health benefit plans for small employers.

19 (b) Portability health benefit plans.

20 (c) Individual health benefit plans.

21 [(3)] (4) The director, upon request by a carrier, may exempt from disclosure any part of the  
22 filing that the director determines to contain trade secrets and that would, if disclosed, harm com-  
23 petition. The part that the director determines to be exempt from disclosure shall be considered  
24 confidential for purposes of ORS 705.137. The director may not disclose a part of a filing subject to  
25 a carrier's request pending the director's determination under this subsection.

26 **(5) In reviewing a schedule or table of premium rates for health insurance filed under**  
27 **subsection (1) of this section, the director shall ensure that the proposed rates are reason-**  
28 **able and not excessive, inadequate or unfairly discriminatory. In determining whether a**  
29 **proposed health insurance premium rate complies with these standards, the director may**  
30 **consider the following factors:**

**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 (a) Historical and projected loss ratio between the amount spent on medical services and
- 2 earned premiums;
- 3 (b) Historical and projected trend in costs of medical services;
- 4 (c) Historical and projected administrative costs;
- 5 (d) Variation in proposed rates over the population affected;
- 6 (e) Investment income;
- 7 (f) Insurer profits;
- 8 (g) Surplus levels;
- 9 (h) Financial strength and stability;
- 10 (i) The effect of medical underwriting;
- 11 (j) Demonstrated efforts to implement cost controls that improve efficiency and maintain
- 12 or improve quality; and
- 13 (k) Any other factor established by rule by the director.

14 (6) The requirements of this section are intended to supplement and not to supersede  
 15 other provisions of law that require insurers, health care service contractors or multiple  
 16 employer welfare arrangements providing health insurance to file rate schedules or proposed  
 17 premium rates with the Department of Consumer and Business Services or to seek depart-  
 18 ment approval of rate schedules or changes.

19 **SECTION 2.** Section 3 of this 2009 Act is added to and made a part of the Insurance Code.

20 **SECTION 3.** (1) Licensed health insurers shall include in a rate filing a statement of ad-  
 21 ministrative expenses in such form and detail as the Director of the Department of Con-  
 22 sumer and Business Services prescribes by rule, including but not limited to:

- 23 (a) A statement of administrative expenses on a per member per month basis; and
- 24 (b) An explanation of the basis for any proposed increases or decreases.

25 (2) The director may approve reasonable increases in administrative expenses but, with-  
 26 out sufficient justification by the insurer that the increases are necessary and appropriate,  
 27 may not approve increases in administrative expenses that exceed the cost of living for the  
 28 previous calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All  
 29 Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United  
 30 States Department of Labor.

31 **SECTION 4.** ORS 750.055, as amended by section 7, chapter 137, Oregon Laws 2003, section 3,  
 32 chapter 263, Oregon Laws 2003, sections 501 and 502, chapter 22, Oregon Laws 2005, sections 5 and  
 33 6, chapter 255, Oregon Laws 2005, section 5, chapter 418, Oregon Laws 2005, section 3, chapter 128,  
 34 Oregon Laws 2007, section 9, chapter 182, Oregon Laws 2007, section 6, chapter 313, Oregon Laws  
 35 2007, section 4, chapter 504, Oregon Laws 2007, section 4, chapter 566, Oregon Laws 2007, section  
 36 4, chapter 872, Oregon Laws 2007, and section 6, chapter 22, Oregon Laws 2008, is amended to read:

37 750.055. (1) The following provisions of the Insurance Code apply to health care service con-  
 38 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

39 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,  
 40 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,  
 41 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,  
 42 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992 and section 2, chapter 22, Oregon Laws 2008.

43 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not  
 44 including ORS 732.582.

45 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695

1 to 733.780.

2 (d) ORS chapter 734.

3 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to  
 4 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,  
 5 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,  
 6 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,  
 7 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,  
 8 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,  
 9 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,  
 10 743A.164, 743A.168, 743A.184 and 743A.190 **and section 3 of this 2009 Act.**

11 (f) The provisions of ORS chapter 744 relating to the regulation of insurance producers.

12 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,  
 13 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

14 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that  
 15 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is  
 16 referred by a physician associated with a group practice health maintenance organization.

17 (i) ORS 735.600 to 735.650.

18 (j) ORS 743.680 to 743.689.

19 (k) ORS 744.700 to 744.740.

20 (L) ORS 743.730 to 743.773.

21 (m) ORS 731.485, except in the case of a group practice health maintenance organization that  
 22 is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns  
 23 and operates an in-house drug outlet.

24 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

25 (3) Any for-profit health care service contractor organized under the laws of any other state that  
 26 is not governed by the insurance laws of the other state is subject to all requirements of ORS  
 27 chapter 732.

28 (4) The Director of the Department of Consumer and Business Services may, after notice and  
 29 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025  
 30 and 750.045 that are deemed necessary for the proper administration of these provisions.

31 **SECTION 5.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section 4,  
 32 chapter 263, Oregon Laws 2003, section 3, chapter 446, Oregon Laws 2003, section 6, chapter 418,  
 33 Oregon Laws 2005, section 12, chapter 182, Oregon Laws 2007, section 9, chapter 313, Oregon Laws  
 34 2007, section 7, chapter 504, Oregon Laws 2007, section 7, chapter 566, Oregon Laws 2007, section  
 35 7, chapter 872, Oregon Laws 2007, and section 9, chapter 22, Oregon Laws 2008, is amended to read:

36 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-  
 37 tiple employer welfare arrangement:

38 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,  
 39 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,  
 40 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

41 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

42 (c) ORS chapter 734.

43 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

44 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,  
 45 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,

1 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,  
2 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110  
3 and 743A.184 **and section 3 of this 2009 Act.**

4 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,  
5 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180 and  
6 743A.190. Multiple employer welfare arrangements to which ORS 743.730 to 743.773 apply are sub-  
7 ject to the sections referred to in this paragraph only as provided in ORS 743.730 to 743.773.

8 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-  
9 ance consultants, and ORS 744.700 to 744.740.

10 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

11 (i) ORS 731.592 and 731.594.

12 (j) Section 2, chapter 22, Oregon Laws 2008.

13 (2) For the purposes of this section:

14 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

15 (b) References to certificates of authority shall be considered references to certificates of mul-  
16 tiple employer welfare arrangement.

17 (c) Contributions shall be considered premiums.

18 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the  
19 transaction of health insurance.

20 **SECTION 6. (1) Section 3 of this 2009 Act and the amendments to ORS 743.018 by section**  
21 **1 of this 2009 Act become operative April 1, 2010.**

22 **(2) Section 3 of this 2009 Act and the amendments to ORS 743.018 by section 1 of this 2009**  
23 **Act apply to premium rate filings for health benefit plans that are issued or renewed on or**  
24 **after April 1, 2010.**