

# House Bill 3262

Sponsored by Representatives GREENLICK, HARKER; Representatives CANNON, DEMBROW, GARRETT, KOTEK

## 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**.

Requires Department of Human Services to use Oregon Prescription Drug Program to purchase drugs for medical assistance recipients if cost-effective.

## A BILL FOR AN ACT

1  
2 Relating to the Oregon Prescription Drug Program; amending ORS 414.312, 414.325, 414.736 and  
3 689.185; and repealing ORS 414.327 and 414.744.

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

5 **SECTION 1.** ORS 414.312 is amended to read:

6 414.312. (1) As used in ORS 414.312 to 414.318:

7 (a) "Pharmacy benefit manager" means an entity that, in addition to being a prescription drug  
8 claims processor, negotiates and executes contracts with pharmacies, manages preferred drug lists,  
9 negotiates rebates with prescription drug manufacturers and serves as an intermediary between the  
10 Oregon Prescription Drug Program, prescription drug manufacturers and pharmacies.

11 (b) "Prescription drug claims processor" means an entity that processes and pays prescription  
12 drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data be-  
13 tween pharmacies and the Oregon Prescription Drug Program and processes related payments to  
14 pharmacies.

15 (c) "Program price" means the reimbursement rates and prescription drug prices established by  
16 the administrator of the Oregon Prescription Drug Program.

17 (2) The Oregon Prescription Drug Program is established in the Department of Human Services.  
18 The purpose of the program is to:

19 (a) Purchase prescription drugs or reimburse pharmacies for prescription drugs in order to re-  
20 ceive discounted prices and rebates;

21 (b) Make prescription drugs available at the lowest possible cost to participants in the program;  
22 and

23 (c) Maintain a list of prescription drugs recommended as the most effective prescription drugs  
24 available at the best possible prices.

25 (3) The Director of Human Services shall appoint an administrator of the Oregon Prescription  
26 Drug Program. The administrator shall:

27 (a) Negotiate price discounts and rebates on prescription drugs with prescription drug man-  
28 ufacturers;

29 (b) Purchase prescription drugs on behalf of individuals and entities that participate in the  
30 program;

31 (c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and

**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 transmit program prices to pharmacies;

2 (d) Determine program prices and reimburse pharmacies for prescription drugs;

3 (e) Adopt and implement a preferred drug list for the program;

4 (f) Develop a system for allocating and distributing the operational costs of the program and any  
5 rebates obtained to participants of the program; and

6 (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

7 (4) The following individuals or entities may participate in the program:

8 (a) Public Employees' Benefit Board;

9 (b) Local governments as defined in ORS 174.116 and special government bodies as defined in  
10 ORS 174.117 that directly or indirectly purchase prescription drugs;

11 (c) Enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342;

12 (d) Oregon Health and Science University established under ORS 353.020;

13 (e) State agencies that directly or indirectly purchase prescription drugs, including agencies that  
14 dispense prescription drugs directly to persons in state-operated facilities;

15 (f) Residents of this state who lack or are underinsured for prescription drug coverage;

16 (g) Private entities; and

17 (h) Labor organizations.

18 (5) The state agency that receives federal Medicaid funds and is responsible for implementing  
19 the state's medical assistance program [*may not*] **shall** participate in the program **as provided in**  
20 **ORS 414.325 (9)**.

21 (6) The administrator may establish different reimbursement rates or prescription drug prices for  
22 pharmacies in rural areas to maintain statewide access to the program.

23 (7) The administrator shall establish the terms and conditions for a pharmacy to enroll in the  
24 program. A licensed pharmacy that is willing to accept the terms and conditions established by the  
25 administrator may apply to enroll in the program.

26 (8) Except as provided in subsection (9) of this section, the administrator may not:

27 (a) Contract with a pharmacy benefit manager;

28 (b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

29 (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dis-  
30 pensed through the program.

31 (9) The administrator shall contract with one or more entities to provide the functions of a  
32 prescription drug claims processor. The administrator may also contract with a pharmacy benefit  
33 manager to negotiate with prescription drug manufacturers on behalf of the administrator.

34 (10) Notwithstanding subsection (4)(f) of this section, individuals who are eligible for Medicare  
35 Part D prescription drug coverage may participate in the program.

36 **SECTION 2.** ORS 414.325 is amended to read:

37 414.325. (1) As used in this section, "legend drug" means any drug requiring a prescription by  
38 a practitioner, as defined in ORS 689.005.

39 (2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in  
40 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the  
41 patient in the practitioner's care and within the scope of practice. Prescriptions shall be dispensed  
42 in the generic form pursuant to ORS 689.515 and pursuant to rules of the Department of Human  
43 Services unless the practitioner prescribes otherwise and an exception is granted by the department.

44 (3) Except as provided in subsections (4) and (5) of this section, the department shall place no  
45 limit on the type of legend drug that may be prescribed by a practitioner, but the department shall

1 pay only for drugs in the generic form unless an exception has been granted by the department.

2 (4) Notwithstanding subsection (3) of this section, an exception must be applied for and granted  
 3 before the department is required to pay for minor tranquilizers and amphetamines and amphetamine  
 4 derivatives, as defined by rule of the department.

5 (5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph  
 6 (b) of this subsection, the department is authorized to:

7 (A) Withhold payment for a legend drug when federal financial participation is not available;  
 8 and

9 (B) Require prior authorization of payment for drugs that the department has determined should  
 10 be limited to those conditions generally recognized as appropriate by the medical profession.

11 (b) The department may not require prior authorization for therapeutic classes of nonsedating  
 12 antihistamines and nasal inhalers, as defined by rule by the department, when prescribed by an  
 13 allergist for treatment of any of the following conditions, as described by the Health Services Com-  
 14 mission on the funded portion of its prioritized list of services:

- 15 (A) Asthma;
- 16 (B) Sinusitis;
- 17 (C) Rhinitis; or
- 18 (D) Allergies.

19 (6)(a) The department shall pay a rural health clinic for a legend drug prescribed and dispensed  
 20 under this chapter by a licensed practitioner at the rural health clinic for an urgent medical con-  
 21 dition if:

- 22 (A) There is not a pharmacy within 15 miles of the clinic;
- 23 (B) The prescription is dispensed for a patient outside of the normal business hours of any  
 24 pharmacy within 15 miles of the clinic; or
- 25 (C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

26 (b) As used in this subsection, “urgent medical condition” means a medical condition that arises  
 27 suddenly, is not life-threatening and requires prompt treatment to avoid the development of more  
 28 serious medical problems.

29 (7) Notwithstanding ORS 414.334, the department may conduct prospective drug utilization re-  
 30 view prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the  
 31 preceding six-month period.

32 (8) Notwithstanding subsection (3) of this section, the department may pay a pharmacy for a  
 33 particular brand name drug rather than the generic version of the drug after notifying the pharmacy  
 34 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is  
 35 equal to or less than the cost of the generic version of the drug.

36 **(9) Subject to ORS 414.330 to 414.336 and except as otherwise provided in this section, the**  
 37 **department shall utilize the Oregon Prescription Drug Program for the purchase of pre-**  
 38 **scription drugs for recipients of medical assistance to the extent that it is cost-effective.**

39 **SECTION 3. ORS 414.327 and 414.744 are repealed.**

40 **SECTION 4.** ORS 689.185 is amended to read:

41 689.185. (1) The State Board of Pharmacy shall meet at least once every three months to trans-  
 42 act its business. One such meeting held during each fiscal year of the state shall be designated by  
 43 rule as the annual meeting and shall be for the purpose of electing officers and for the reorganiza-  
 44 tion of the board. The board shall meet at such additional times as it may determine. Such addi-  
 45 tional meetings may be called by the president of the board or by majority of members of the board.

1 (2) The board shall meet at such place as it may from time to time determine. The place for each  
2 meeting shall be determined prior to giving notice of such meeting and shall not be changed after  
3 such notice is given without adequate subsequent notice.

4 (3) Notice of all meetings of the board shall be given in the manner and pursuant to require-  
5 ments prescribed by the state's applicable rules.

6 (4) A majority of the members of the board shall constitute a quorum for the conduct of a board  
7 meeting and, except where a greater number is required by ORS 167.203, [414.325,] 430.405, 435.010,  
8 453.025, 475.005, 475.135, 475.185, 475.840, 475.906 and 616.855 and this chapter, or by any rule of the  
9 board, all actions of the board shall be by a majority of a quorum.

10 (5) All board meetings and hearings shall be open to the public. The board may, in its discretion  
11 and according to law, conduct any portion of its meeting in executive session closed to the public.

12 **SECTION 5.** ORS 414.736 is amended to read:

13 414.736. As used in this section and ORS 414.725, 414.737, 414.738, 414.739, 414.740, 414.741,  
14 414.742[,] **and** 414.743 [*and 414.744*]:

15 (1) "Designated area" means a geographic area of the state defined by the Department of Human  
16 Services by rule that is served by a prepaid managed care health services organization.

17 (2) "Fully capitated health plan" means an organization that contracts with the Department of  
18 Human Services on a prepaid capitated basis under ORS 414.725 to provide an adequate network  
19 of providers to ensure that the health services provided under the contract are reasonably accessi-  
20 ble to enrollees.

21 (3) "Physician care organization" means an organization that contracts with the Department of  
22 Human Services on a prepaid capitated basis under ORS 414.725 to provide an adequate network  
23 of providers to ensure that the health services described in ORS 414.705 (1)(b), (c), (d), (e), (g) and  
24 (j) are reasonably accessible to enrollees. A physician care organization may also contract with the  
25 department on a prepaid capitated basis to provide the health services described in ORS 414.705  
26 (1)(k) and (L).

27 (4) "Prepaid managed care health services organization" means a managed physical health,  
28 dental, mental health or chemical dependency organization that contracts with the Department of  
29 Human Services on a prepaid capitated basis under ORS 414.725. A prepaid managed care health  
30 services organization may be a dental care organization, fully capitated health plan, physician care  
31 organization, mental health organization or chemical dependency organization.

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