

Senate Bill 508

Sponsored by Senators MONNES ANDERSON, KRUSE, Representatives SCHAUFLEER, THOMPSON (at the request of Oregon Medical Association)

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 health insurers to request refunds from providers within 12 months of date of payment and to allow six months for payment of refund.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health insurance; creating new provisions; amending ORS 743.801, 750.055 and 750.333;
3 and declaring an emergency.

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. (1) For purposes of this section, "refund" means the return, either directly**
7 **or through an offset to a future claim, of some or all of a payment previously paid by a**
8 **health insurer to a provider.**

9 **(2) Except in the case of demonstrated fraud, a health insurer may not:**

10 **(a) Request a refund from a provider of a payment previously made by the health insurer**
11 **to satisfy a claim, unless the health insurer requests the refund in writing within 12 months**
12 **after the date the payment was made; or**

13 **(b) Request that a refund be paid sooner than six months after the provider receives the**
14 **request.**

15 **(3) Any request pursuant to subsection (2) of this section must specify the reason why**
16 **the health insurer believes that the provider owes the refund.**

17 **(4) Nothing in a contract between a health insurer and a provider shall conflict with this**
18 **section. Nothing in this section prohibits a provider from refunding a payment previously**
19 **received from a health insurer.**

20 **SECTION 3. ORS 743.801 is amended to read:**

21 743.801. As used in ORS 743.801, 743.803, 743.804, 743.806, 743.807, 743.808, 743.811, 743.814,
22 743.817, 743.819, 743.821, 743.823, 743.827, 743.829, 743.831, 743.834, 743.837, 743.839, 743.854, 743.856,
23 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911, 743.913 and 743A.012 **and section**
24 **2 of this 2009 Act:**

25 (1) "Emergency medical condition" means a medical condition that manifests itself by acute
26 symptoms of sufficient severity, including severe pain, that a prudent layperson possessing an aver-
27 age knowledge of health and medicine would reasonably expect that failure to receive immediate
28 medical attention would place the health of a person, or a fetus in the case of a pregnant woman,
29 in serious jeopardy.

30 (2) "Emergency medical screening exam" means the medical history, examination, ancillary tests

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 and medical determinations required to ascertain the nature and extent of an emergency medical
2 condition.

3 (3) “Emergency services” means those health care items and services furnished in an emergency
4 department and all ancillary services routinely available to an emergency department to the extent
5 they are required for the stabilization of a patient.

6 (4) “Enrollee” has the meaning given that term in ORS 743.730.

7 (5) “Grievance” means a written complaint submitted by or on behalf of an enrollee regarding
8 the:

9 (a) Availability, delivery or quality of health care services, including a complaint regarding an
10 adverse determination made pursuant to utilization review;

11 (b) Claims payment, handling or reimbursement for health care services; or

12 (c) Matters pertaining to the contractual relationship between an enrollee and an insurer.

13 (6) “Health benefit plan” has the meaning provided for that term in ORS 743.730.

14 (7) “Independent practice association” means a corporation wholly owned by providers, or whose
15 membership consists entirely of providers, formed for the sole purpose of contracting with insurers
16 for the provision of health care services to enrollees, or with employers for the provision of health
17 care services to employees, or with a group, as described in ORS 743.522, to provide health care
18 services to group members.

19 (8) “Insurer” has the meaning provided for that term in ORS 731.106. For purposes of ORS
20 743.801, 743.803, 743.804, 743.806, 743.807, 743.808, 743.811, 743.814, 743.817, 743.819, 743.821, 743.823,
21 743.827, 743.829, 743.831, 743.834, 743.837, 743.839, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861,
22 743.862, 743.863, 743.864, 743.911, 743.913, 743A.012, 750.055 and 750.333 **and section 2 of this 2009**
23 **Act**, “insurer” also includes a health care service contractor as defined in ORS 750.005.

24 (9) “Managed health insurance” means any health benefit plan that:

25 (a) Requires an enrollee to use a specified network or networks of providers managed, owned,
26 under contract with or employed by the insurer in order to receive benefits under the plan, except
27 for emergency or other specified limited service; or

28 (b) In addition to the requirements of paragraph (a) of this subsection, offers a point-of-service
29 provision that allows an enrollee to use providers outside of the specified network or networks at
30 the option of the enrollee and receive a reduced level of benefits.

31 (10) “Medical services contract” means a contract between an insurer and an independent
32 practice association, between an insurer and a provider, between an independent practice associ-
33 ation and a provider or organization of providers, between medical or mental health clinics, and
34 between a medical or mental health clinic and a provider to provide medical or mental health ser-
35 vices. “Medical services contract” does not include a contract of employment or a contract creating
36 legal entities and ownership thereof that are authorized under ORS chapter 58, 60 or 70, or other
37 similar professional organizations permitted by statute.

38 (11)(a) “Preferred provider organization insurance” means any health benefit plan that:

39 (A) Specifies a preferred network of providers managed, owned or under contract with or em-
40 ployed by an insurer;

41 (B) Does not require an enrollee to use the preferred network of providers in order to receive
42 benefits under the plan; and

43 (C) Creates financial incentives for an enrollee to use the preferred network of providers by
44 providing an increased level of benefits.

45 (b) “Preferred provider organization insurance” does not mean a health benefit plan that has

1 as its sole financial incentive a hold harmless provision under which providers in the preferred
 2 network agree to accept as payment in full the maximum allowable amounts that are specified in
 3 the medical services contracts.

4 (12) "Prior authorization" means a determination by an insurer prior to provision of services
 5 that the insurer will provide reimbursement for the services. "Prior authorization" does not include
 6 referral approval for evaluation and management services between providers.

7 (13) "Provider" means a person licensed, certified or otherwise authorized or permitted by laws
 8 of this state to administer medical or mental health services in the ordinary course of business or
 9 practice of a profession.

10 (14) "Stabilization" means that, within reasonable medical probability, no material deterioration
 11 of an emergency medical condition is likely to occur.

12 (15) "Utilization review" means a set of formal techniques used by an insurer or delegated by
 13 the insurer designed to monitor the use of or evaluate the medical necessity, appropriateness, effi-
 14 cacy or efficiency of health care services, procedures or settings.

15 **SECTION 4.** ORS 750.055, as amended by section 5, chapter 22, Oregon Laws 2008, is amended
 16 to read:

17 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
 18 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

19 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
 20 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
 21 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
 22 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992 and section 2, chapter 22, Oregon Laws 2008.

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

25 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
 26 to 733.780.

27 (d) ORS chapter 734.

28 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
 29 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
 30 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,
 31 743.560, 743.600 to 743.610, 743.650 to 743.664, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,
 32 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,
 33 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,
 34 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,
 35 743A.164, 743A.168, 743A.184, 743A.188 and 743A.190 **and section 2 of this 2009 Act.**

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

37 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
 38 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

42 (i) ORS 735.600 to 735.650.

43 (j) ORS 743.680 to 743.689.

44 (k) ORS 744.700 to 744.740.

45 (L) ORS 743.730 to 743.773.

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

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

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

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

11 **SECTION 5.** ORS 750.055, as amended by section 7, chapter 137, Oregon Laws 2003, section 3,
 12 chapter 263, Oregon Laws 2003, sections 501 and 502, chapter 22, Oregon Laws 2005, sections 5 and
 13 6, chapter 255, Oregon Laws 2005, section 5, chapter 418, Oregon Laws 2005, section 3, chapter 128,
 14 Oregon Laws 2007, section 9, chapter 182, Oregon Laws 2007, section 6, chapter 313, Oregon Laws
 15 2007, section 4, chapter 504, Oregon Laws 2007, section 4, chapter 566, Oregon Laws 2007, section
 16 4, chapter 872, Oregon Laws 2007, and section 6, chapter 22, Oregon Laws 2008, is amended to read:

17 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
 18 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

19 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
 20 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
 21 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
 22 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992 and section 2, chapter 22, Oregon Laws 2008.

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

25 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
 26 to 733.780.

27 (d) ORS chapter 734.

28 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
 29 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
 30 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,
 31 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,
 32 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,
 33 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,
 34 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,
 35 743A.164, 743A.168, 743A.184 and 743A.190 **and section 2 of this 2009 Act.**

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

37 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
 38 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

42 (i) ORS 735.600 to 735.650.

43 (j) ORS 743.680 to 743.689.

44 (k) ORS 744.700 to 744.740.

45 (L) ORS 743.730 to 743.773.

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

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

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

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

11 **SECTION 6.** ORS 750.333, as amended by section 7, chapter 22, Oregon Laws 2008, is amended
 12 to read:

13 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
 14 tiple employer welfare arrangement:

15 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
 16 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
 17 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

18 (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.

19 (c) ORS chapter 734.

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

21 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
 22 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
 23 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
 24 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
 25 and 743A.184 **and section 2 of this 2009 Act.**

26 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,
 27 743A.048, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180,
 28 743A.188 and 743A.190. Multiple employer welfare arrangements to which ORS 743.730 to 743.773
 29 apply are subject to the sections referred to in this paragraph only as provided in ORS 743.730 to
 30 743.773.

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

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

34 (i) ORS 731.592 and 731.594.

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

36 (2) For the purposes of this section:

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

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

40 (c) Contributions shall be considered premiums.

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

43 **SECTION 7.** ORS 750.333, as amended by section 4, chapter 263, Oregon Laws 2003, section 11,
 44 chapter 182, Oregon Laws 2007, section 8, chapter 313, Oregon Laws 2007, section 6, chapter 504,
 45 Oregon Laws 2007, section 6, chapter 566, Oregon Laws 2007, section 6, chapter 872, Oregon Laws

1 2007, and section 8, chapter 22, Oregon Laws 2008, is amended to read:

2 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
3 tiple employer welfare arrangement:

4 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
5 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
6 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

7 (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.

8 (c) ORS chapter 734.

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

10 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
11 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
12 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
13 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
14 and 743A.184 **and section 2 of this 2009 Act.**

15 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,
16 743A.048, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180
17 and 743A.190. Multiple employer welfare arrangements to which ORS 743.730 to 743.773 apply are
18 subject to the sections referred to in this paragraph only as provided in ORS 743.730 to 743.773.

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

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

22 (i) ORS 731.592 and 731.594.

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

24 (2) For the purposes of this section:

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

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

28 (c) Contributions shall be considered premiums.

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

31 **SECTION 8.** 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 2 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 9. Section 2 of this 2009 Act applies to contracts entered into or renewed on**
21 **or after the effective date of this 2009 Act.**

22 **SECTION 10. This 2009 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
24 **on its passage.**

25