

House Bill 3659

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT ACCOUNTABILITY

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**.

Prohibits insurer from voiding, canceling or refusing to renew individual health insurance policy for misstatement or omission of information in application except in certain circumstances involving fraudulent misstatement or omission of information. Prohibits insurer from denying claim for loss within two years of issuance of policy based on preexisting condition unless condition was known by insured prior to application and claim for loss is substantially related to preexisting condition.

Prohibits insurer from offering financial incentives or compensation to employee or contractor based upon claims denied by employee or contractor.

A BILL FOR AN ACT

1
2 Relating to health insurance; creating new provisions; and amending ORS 743.414 and 743.472.

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

4 **SECTION 1.** ORS 743.414 is amended to read:

5 743.414. *[(1) A health insurance policy shall contain a provision as follows: "TIME LIMIT ON*
6 *CERTAIN DEFENSES: After two years from the date of issue of this policy no misstatements, except*
7 *fraudulent misstatements, made by the applicant in the application for such policy shall be used to void*
8 *the policy or to deny a claim for loss incurred or disability, as defined in the policy, commencing after*
9 *the expiration of that period."]*

10 *[(2) The policy provision set forth in subsection (1) of this section shall not be so construed as to*
11 *affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year*
12 *period, or to limit the application of ORS 743.450 to 743.462 in the event of misstatement with respect*
13 *to age or occupation or other insurance.]*

14 **(1) An individual health insurance policy must contain a provision as follows: "MIS-**
15 **STATEMENTS OR OMISSIONS: An insurer may not void a policy of individual health in-**
16 **surance based upon a misstatement or omission of information by an applicant in an**
17 **application for individual health insurance unless the applicant made the misstatement or**
18 **omission fraudulently and the misstatement or omission concerned a condition:**

19 **"(a) For which the insured received medical advice, a diagnosis, care or treatment prior**
20 **to the effective date of coverage under this policy; and**

21 **"(b) That is substantially related to a claim for indemnity by the insured for loss or dis-**
22 **ability."**

23 *[(3)]* **(2) [A policy which] An individual health insurance policy that** the insured has the right
24 to continue in force subject to its terms by the timely payment of premium until at least age 50 or,
25 in the case of a policy issued after age 44, for at least five years from its date of issue, may contain
26 in lieu of the provision set forth in subsection (1) of this section the following provision, from which
27 the clause in parentheses may be omitted at the insurer's option: "INCONTESTABLE: After this
28 policy has been in force for a period of two years during the lifetime of the insured (excluding any

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 period during which the insured is disabled), it shall become incontestable as to the statements
 2 contained in the application.”

3 *[(4) The policy shall contain a provision as follows, which shall be a separate paragraph under the*
 4 *same caption as, and immediately following, the provision set forth in subsection (1) or (3) of this sec-*
 5 *tion: “No claim for loss incurred or disability, as defined in the policy, commencing after two years*
 6 *from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical*
 7 *condition not excluded from coverage by name or specific description effective on the date of loss had*
 8 *existed prior to the effective date of coverage of this policy.”]*

9 **(3) An individual health insurance policy must contain a provision as follows, which must**
 10 **be a separate paragraph under the same caption as, and immediately following, the provision**
 11 **set forth in subsection (1) or (2) of this section: “A claim for loss or disability:**

12 **“(a) Arising within two years from the date of issue of this policy may not be reduced**
 13 **or denied on the ground that a condition not excluded from coverage by name or specific**
 14 **description on the date of loss had existed prior to the effective date of coverage under this**
 15 **policy, unless:**

16 **“(A) The insured received medical advice, a diagnosis, care or treatment for the condition**
 17 **prior to the effective date of coverage; and**

18 **“(B) The condition is substantially related to the claim for loss.**

19 **“(b) Arising after two years from the date of issue of this policy may not be reduced or**
 20 **denied on the ground that a condition not excluded from coverage by name or specific de-**
 21 **scription on the date of loss had existed prior to the effective date of coverage under this**
 22 **policy.”**

23 **(4) The policy provision set forth in subsection (1) of this section does not limit the ap-**
 24 **plication of ORS 743.450 to 743.462 in the event of misstatement or omission of information**
 25 **with respect to age, occupation or other insurance.**

26 **SECTION 2.** ORS 743.472 is amended to read:

27 743.472. (1) An insurer selling individual health insurance policies may cancel or refuse to re-
 28 new an individual health insurance policy only if the insurer makes a determination to cancel or
 29 not to renew all policies of the same type and form as the individual policy, or if the ground for
 30 cancellation or nonrenewal is any of the following and is stated as a provision of the policy:

31 *[(1) A fraudulent or material misstatement made by the applicant in an application for the health*
 32 *policy. A material misstatement is subject to any time limit, as specified by law and included in the*
 33 *policy, for voiding the policy on the basis of a misstatement. For purposes of this subsection, a mis-*
 34 *statement may include an incorrect statement or a misrepresentation, omission or concealment of fact;]*

35 **(a) A fraudulent misstatement or omission of information by the applicant in an appli-**
 36 **cation for the policy concerning a condition for which an insured:**

37 **(A) Received medical advice, a diagnosis, care or treatment prior to the effective date**
 38 **of coverage under the policy; and**

39 **(B) Submitted a claim for loss or disability.**

40 **[(2)] (b) Excess or other insurance in the same insurer, as described in ORS 743.456.[:]**

41 **[(3)] (c) Nonpayment of premium.[: or]**

42 **[(4)] (d) Any other reason specified by the Director of the Department of Consumer and Business**
 43 **Services by rule.**

44 **(2) An insurer may not cancel or refuse to renew an individual health insurance policy**
 45 **under subsection (1)(a) of this section if the policy based on the application containing the**

1 **fraudulent misstatement or omission has been in effect for two years or more.**

2 **SECTION 3. An insurer selling individual health insurance policies may not offer financial**
3 **incentives or compensation based upon the denial of claims by a person employed by or under**
4 **contract with the insurer to process claims.**

5 **SECTION 4. The amendments to ORS 743.414 and 743.472 by sections 1 and 2 of this 2010**
6 **Act apply to individual health insurance policies issued or renewed on or after the effective**
7 **date of this 2010 Act.**

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