

House Bill 3028

Sponsored by Representatives KENNEMER, 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**.

Prohibits discrimination in rates of insurance reimbursement paid to specified providers.

A BILL FOR AN ACT

1
2 Relating to discrimination against some providers in rates of insurance reimbursement; amending
3 ORS 743A.036 and 743A.168.

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

5 **SECTION 1.** ORS 743A.036 is amended to read:

6 743A.036. *[(1)]* Whenever any policy of health insurance provides for reimbursement for any
7 service which is within the lawful scope of practice of a duly licensed and certified nurse practi-
8 tioner, including prescribing or dispensing drugs, the insured under the policy is entitled to re-
9 imbursement *[for such service whether it is]* **at the same rate that the service is reimbursed if**
10 performed by a physician licensed by the Oregon Medical Board *[or by a duly licensed nurse practi-*
11 *tioner]*.

12 *[(2) This section does not apply to group practice health maintenance organizations that are*
13 *federally qualified pursuant to Title XIII of the Health Maintenance Organization Act.]*

14 **SECTION 2.** ORS 743A.168 is amended to read:

15 743A.168. A group health insurance policy providing coverage for hospital or medical expenses
16 shall provide coverage for expenses arising from treatment for chemical dependency, including
17 alcoholism, and for mental or nervous conditions at the same level as, and subject to limitations no
18 more restrictive than, those imposed on coverage or reimbursement of expenses arising from treat-
19 ment for other medical conditions. The following apply to coverage for chemical dependency and for
20 mental or nervous conditions:

21 (1) As used in this section:

22 (a) "Chemical dependency" means the addictive relationship with any drug or alcohol charac-
23 terized by a physical or psychological relationship, or both, that interferes on a recurring basis with
24 the individual's social, psychological or physical adjustment to common problems. For purposes of
25 this section, "chemical dependency" does not include addiction to, or dependency on, tobacco, to-
26 bacco products or foods.

27 (b) "Facility" means a corporate or governmental entity or other provider of services for the
28 treatment of chemical dependency or for the treatment of mental or nervous conditions.

29 (c) "Group health insurer" means an insurer, a health maintenance organization or a health care
30 service contractor.

31 (d) "Program" means a particular type or level of service that is organizationally distinct within
32 a facility.

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 (e) "Provider" means a person that has met the credentialing requirement of a group health
 2 insurer, is otherwise eligible to receive reimbursement for coverage under the policy and is:

3 (A) A health care facility;

4 (B) A residential program or facility;

5 (C) A day or partial hospitalization program;

6 (D) An outpatient service; or

7 (E) An individual behavioral health or medical professional authorized for reimbursement under
 8 Oregon law.

9 (2) The coverage may be made subject to provisions of the policy that apply to other benefits
 10 under the policy, including but not limited to provisions relating to deductibles and coinsurance.
 11 Deductibles and coinsurance for treatment in health care facilities or residential programs or facil-
 12 ities may not be greater than those under the policy for expenses of hospitalization in the treatment
 13 of other medical conditions. Deductibles and coinsurance for outpatient treatment may not be
 14 greater than those under the policy for expenses of outpatient treatment of other medical conditions.

15 (3) The coverage may not be made subject to treatment limitations, limits on total payments for
 16 treatment, limits on duration of treatment or financial requirements unless similar limitations or
 17 requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses
 18 may be limited to treatment that is medically necessary as determined under the policy for other
 19 medical conditions.

20 (4)(a) Nothing in this section requires coverage for:

21 (A) Educational or correctional services or sheltered living provided by a school or halfway
 22 house;

23 (B) A long-term residential mental health program that lasts longer than 45 days;

24 (C) Psychoanalysis or psychotherapy received as part of an educational or training program,
 25 regardless of diagnosis or symptoms that may be present;

26 (D) A court-ordered sex offender treatment program; *[or]*

27 (E) A screening interview or treatment program under ORS 813.021[.]; **or**

28 **(F) A support group.**

29 (b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpa-
 30 tient services under the terms of the insured's policy while the insured is living temporarily in a
 31 sheltered living situation.

32 (5) A provider is eligible for reimbursement under this section if:

33 (a) The provider is approved by the Department of Human Services **or the Oregon Health**
 34 **Authority;**

35 (b) The provider is accredited for the particular level of care for which reimbursement is being
 36 requested by the Joint Commission on Accreditation of Hospitals or the Commission on Accredi-
 37 tation of Rehabilitation Facilities;

38 (c) The patient is staying overnight at the facility and is involved in a structured program at
 39 least eight hours per day, five days per week; or

40 (d) The provider is providing a covered benefit under the policy.

41 *[(6) Payments may not be made under this section for support groups.]*

42 **(6) An insurer may not discriminate in the rate of reimbursement paid for any coverage**
 43 **required by this section, whether the treatment is provided by a physician or by any other**
 44 **provider who performs the service within the provider's lawful scope of practice, including**
 45 **but not limited to a clinical social worker, nurse practitioner, psychologist, professional**

1 **counselor or marriage and family therapist.**

2 (7) If specified in the policy, outpatient coverage may include follow-up in-home service or out-
3 patient services. The policy may limit coverage for in-home service to persons who are homebound
4 under the care of a physician.

5 (8) Nothing in this section prohibits a group health insurer from managing the provision of
6 benefits through common methods, including but not limited to selectively contracted panels, health
7 plan benefit differential designs, preadmission screening, prior authorization of services, utilization
8 review or other mechanisms designed to limit eligible expenses to those described in subsection (3)
9 of this section.

10 (9) The Legislative Assembly has found that health care cost containment is necessary and in-
11 tends to encourage insurance policies designed to achieve cost containment by ensuring that re-
12 imbursement is limited to appropriate utilization under criteria incorporated into such policies,
13 either directly or by reference.

14 (10)(a) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to phy-
15 sicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS 40.250
16 and 675.580 relating to licensed clinical social workers and ORS 40.262 relating to licensed profes-
17 sional counselors and licensed marriage and family therapists, a group health insurer may provide
18 for review for level of treatment of admissions and continued stays for treatment in health care fa-
19 cilities, residential programs or facilities, day or partial hospitalization programs and outpatient
20 services by either group health insurer staff or personnel under contract to the group health insurer,
21 or by a utilization review contractor, who shall have the authority to certify for or deny level of
22 payment.

23 (b) Review shall be made according to criteria made available to providers in advance upon re-
24 quest.

25 (c) Review shall be performed by or under the direction of a medical or osteopathic physician
26 licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist
27 Examiners, a clinical social worker licensed by the State Board of Licensed Social Workers or a
28 professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed
29 Professional Counselors and Therapists, in accordance with standards of the National Committee for
30 Quality Assurance or Medicare review standards of the Centers for Medicare and Medicaid Ser-
31 vices.

32 (d) Review may involve prior approval, concurrent review of the continuation of treatment,
33 post-treatment review or any combination of these. However, if prior approval is required, provision
34 shall be made to allow for payment of urgent or emergency admissions, subject to subsequent re-
35 view. If prior approval is not required, group health insurers shall permit providers, policyholders
36 or persons acting on their behalf to make advance inquiries regarding the appropriateness of a
37 particular admission to a treatment program. Group health insurers shall provide a timely response
38 to such inquiries. Noncontracting providers must cooperate with these procedures to the same ex-
39 tent as contracting providers to be eligible for reimbursement.

40 (11) Health maintenance organizations may limit the receipt of covered services by enrollees to
41 services provided by or upon referral by providers contracting with the health maintenance organ-
42 ization. Health maintenance organizations and health care service contractors may create substan-
43 tive plan benefit and reimbursement differentials at the same level as, and subject to limitations no
44 more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other
45 medical conditions and apply them to contracting and noncontracting providers.

1 (12) Nothing in this section prevents a group health insurer from contracting with providers of
2 health care services to furnish services to policyholders or certificate holders according to ORS
3 743.531 or 750.005, subject to the following conditions:

4 (a) A group health insurer is not required to contract with all eligible providers.

5 (b) An insurer or health care service contractor shall, subject to subsections (2) and (3) of this
6 section, pay benefits toward the covered charges of noncontracting providers of services for the
7 treatment of chemical dependency or mental or nervous conditions. The insured shall, subject to
8 subsections (2) and (3) of this section, have the right to use the services of a noncontracting provider
9 of services for the treatment of chemical dependency or mental or nervous conditions, whether or
10 not the services for chemical dependency or mental or nervous conditions are provided by con-
11 tracting or noncontracting providers.

12 (13) The intent of the Legislative Assembly in adopting this section is to reserve benefits for
13 different types of care to encourage cost effective care and to ensure continuing access to levels
14 of care most appropriate for the insured's condition and progress.

15 (14) The Director of the Department of Consumer and Business Services, after notice and hear-
16 ing, may adopt reasonable rules not inconsistent with this section that are considered necessary for
17 the proper administration of these provisions.

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