

Senate Bill 716

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS 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**.

Requires Director of Department of Consumer and Business Services to contract with qualified experts to perform independent analyses of health insurance rate filings that cause composite average rate increase to exceed five percent or under criteria adopted by director by rule. Requires insurer to reimburse Department of Consumer and Business Services for costs of independent analysis.

A BILL FOR AN ACT

1
2 Relating to independent analysis of health insurance rate filings; creating new provisions; and
3 amending ORS 742.003 and 743.018.

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

5 **SECTION 1. (1) The Director of the Department of Consumer and Business Services shall**
6 **contract with one or more experts to perform the independent analyses required by ORS**
7 **743.018 (4). The director by rule shall adopt minimum qualifications for the experts who**
8 **perform the independent analyses. In selecting an expert to perform an independent analysis,**
9 **the director shall give preference to an expert who has not had a compensated employment,**
10 **advisory or other business relationship with the insurer that submitted the rate filing under**
11 **review.**

12 **(2) An expert shall have access to all information described in ORS 743.018 (3), 743.737 (10)**
13 **and 743.760 (10) to the same extent and subject to the same restrictions as the Department**
14 **of Consumer and Business Services. The expert shall be authorized to notify the insurer and**
15 **the director of any deficiencies in the filing and to provide an opportunity for the insurer to**
16 **address any deficiency.**

17 **(3) An expert shall provide a written report of the independent analysis no later than the**
18 **close of the public comment period under ORS 743.019. The written report shall be part of**
19 **the record of the proceeding and shall be available with the other records of the proceeding**
20 **on the department's website. The independent analysis must include:**

21 **(a) Findings and conclusions;**

22 **(b) Recommendations for approval or denial of the rate filing based on the criteria spec-**
23 **ified in ORS 743.018; and**

24 **(c) An explanation with justification of the conclusions and recommendations.**

25 **(4) An expert who performs an independent analysis of a rate filing under this section is**
26 **authorized to testify in any proceeding concerning the rate filing. The department shall**
27 **compensate the expert for the independent analysis and for testimony provided in any pro-**
28 **ceeding, and the costs shall be reimbursed by the insurer.**

29 **(5) The department shall adopt rules to carry out ORS 743.018 (4) and this section.**

30 **SECTION 2. ORS 742.003 is amended to read:**

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.

1 742.003. (1) Except where otherwise provided by law, no basic policy form, or application form
 2 where written application is required and is to be made a part of the policy, or rider, indorsement
 3 or renewal certificate form shall be delivered or issued for delivery in this state until the form has
 4 been filed with and approved by the Director of the Department of Consumer and Business Services.
 5 This section does not apply to:

6 (a) Forms of unique character which are designed for and used with respect to insurance upon
 7 a particular risk or subject;

8 (b) Forms issued at the request of a particular life or health insurance policy owner or certif-
 9 icate holder and which relate to the manner of distribution of benefits or to the reservation of rights
 10 and benefits thereunder;

11 (c) Forms of group life or health insurance policies, or both, that have been agreed upon as a
 12 result of negotiations between the policyholder and the insurer; or

13 (d) Forms complying with specific requirements regarding delivery or issuance for delivery in
 14 this state established by the director by rule.

15 (2) **Except for rate filings that are subject to ORS 743.019**, the director shall within 30 days
 16 after the filing of any [*such*] form approve or disapprove the form. The director shall give written
 17 notice of such action to the insurer proposing to deliver such form and when a form is disapproved
 18 the notice shall show wherein such form does not comply with the law.

19 (3) The 30-day period referred to in subsection (2) of this section may be extended by the di-
 20 rector for an additional period not to exceed 30 days if the director gives written notice within the
 21 first 30-day period to the insurer proposing to deliver the form that the director needs such addi-
 22 tional time for the consideration of such form.

23 (4) The director may at any time request an insurer to furnish the director a copy of any form
 24 exempted under subsection (1) of this section.

25 **SECTION 3.** ORS 743.018 is amended to read:

26 743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,
 27 every insurer shall file with the Director of the Department of Consumer and Business Services all
 28 schedules and tables of premium rates for life and health insurance to be used on risks in this state,
 29 and shall file any amendments to or corrections of such schedules and tables. Premium rates are
 30 subject to approval, disapproval or withdrawal of approval by the director as provided in ORS
 31 742.003, 742.005 and 742.007.

32 (2) Except as provided in ORS 743.737 and 743.760 and subsection (3) of this section, a rate filing
 33 by a carrier for any of the following health benefit plans subject to ORS 743.730 to 743.773 shall be
 34 available for public inspection immediately upon submission of the filing to the director:

35 (a) Health benefit plans for small employers.

36 (b) Portability health benefit plans.

37 (c) Individual health benefit plans.

38 (3) The director may by rule:

39 (a) Specify all information a carrier must submit as part of a rate filing under this section; and

40 (b) Identify the information submitted that will be exempt from disclosure under this section
 41 because the information constitutes a trade secret and would, if disclosed, harm competition.

42 (4) **The director shall order an independent analysis in accordance with section 1 of this**
 43 **2011 Act of any rate filing submitted by an insurer with 5,000 or more covered lives in the**
 44 **individual and small employer health insurance markets in Oregon if:**

45 (a) **The composite average rate increase filed by the insurer exceeds five percent;**

1 **(b) The proposed rate increase will have an adverse impact on the availability,**
2 **affordability or cost of health insurance coverage in this state; or**

3 **(c) If the director determines that it is in the best interests of the insureds affected by**
4 **the rate increase.**

5 [(4)] (5) The director, after conducting an actuarial review of the rate filing, **including the re-**
6 **sults of any independent analysis**, may approve a proposed premium rate for a health benefit plan
7 for small employers or for an individual health benefit plan if, in the director's discretion, the pro-
8 posed rates are:

9 (a) Actuarially sound;

10 (b) Reasonable and not excessive, inadequate or unfairly discriminatory; and

11 (c) Based upon reasonable administrative expenses.

12 [(5)] (6) In order to determine whether the proposed premium rates for a health benefit plan for
13 small employers or for an individual health benefit plan are reasonable and not excessive, inade-
14 quate or unfairly discriminatory, the director may consider:

15 (a) The insurer's financial position, including but not limited to profitability, surplus, reserves
16 and investment savings.

17 (b) Historical and projected administrative costs and medical and hospital expenses.

18 (c) Historical and projected loss ratio between the amounts spent on medical services and
19 earned premiums.

20 (d) Any anticipated change in the number of enrollees if the proposed premium rate is approved.

21 (e) Changes to covered benefits or health benefit plan design.

22 (f) Changes in the insurer's health care cost containment and quality improvement efforts since
23 the insurer's last rate filing for the same category of health benefit plan.

24 (g) Whether the proposed change in the premium rate is necessary to maintain the insurer's
25 solvency or to maintain rate stability and prevent excessive rate increases in the future.

26 (h) Any public comments received under ORS 743.019 pertaining to the standards set forth in
27 subsection [(4)] (5) of this section and this subsection.

28 [(6)] (7) With the written consent of the insurer, the director may modify a schedule or table
29 of premium rates filed in accordance with subsection (1) of this section.

30 [(7)] (8) The requirements of this section do not supersede other provisions of law that require
31 insurers, health care service contractors or multiple employer welfare arrangements providing
32 health insurance to file schedules or tables of premium rates or proposed premium rates with the
33 director or to seek the director's approval of rates or changes to rates.

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