

House Bill 4135

Sponsored by Representative FREDERICK; Representatives BAILEY, BUCKLEY, DEMBROW, DOHERTY, KENY-GUYER, KOTEK, NATHANSON, TOMEL, WITT (Pre-session filed.)

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 insurer, if rate filing represents specified premium rate increase, to send notice to affected policyholders and persons who requested notification.

Requires director to deny approval of rate filing if carrier reimburses claims for serious adverse events. Requires director to consider specified criteria related to financial condition of insurer in approving rate increases.

A BILL FOR AN ACT

1
2 Relating to health insurance; creating new provisions; and amending ORS 742.003, 743.018, 743.019
3 and 743.020.

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

5 **SECTION 1.** ORS 743.019 is amended to read:

6 743.019. (1) When an insurer files **for approval by the Director of the Department of Con-**
7 **sumer and Business Services** a schedule or table of premium rates for **an** individual, portability
8 or small employer health [*insurance under ORS 743.018*] **benefit plan as defined in ORS 743.730**,
9 the director [*of the Department of Consumer and Business Services*] shall open a 30-day public com-
10 ment period on the rate filing that begins on the date the insurer files the schedule or table of
11 premium rates. The director shall post all comments to the website of the Department of Consumer
12 and Business Services without delay.

13 **(2) If a rate filing represents an average premium rate increase of seven percent or**
14 **greater and affects 1,000 or more enrollees in the individual and small employer markets, the**
15 **insurer shall, within three business days of the filing, notify all policyholders affected by the**
16 **filing and all persons who have requested notification of a filing. The notice must include:**

17 **(a) A statement of the average percentage increase in rates and the range of increased**
18 **rates that were used in the calculation of the average percentage increase in rates;**

19 **(b) Instructions for accessing information about the rate increase at the website of the**
20 **Department of Consumer and Business Services; and**

21 **(c) Instructions for providing public comment on the rate filing.**

22 [(2)] **(3)** The director shall give written notice to an insurer approving or disapproving a rate
23 filing or, with the written consent of the insurer, modifying a rate filing submitted under ORS
24 743.018 no later than 10 business days after the close of the public comment period. The notice shall
25 comply with the requirements of ORS 183.415.

26 **SECTION 2.** ORS 743.018 is amended to read:

27 743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,
28 every insurer shall file with the Director of the Department of Consumer and Business Services all
29 schedules and tables of premium rates for life and health insurance to be used on risks in this state,

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 shall file any amendments to or corrections of such schedules and tables. Premium rates are
 2 subject to approval, disapproval or withdrawal of approval by the director as provided in ORS
 3 742.003, 742.005 and 742.007.

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

7 (a) Health benefit plans for small employers.

8 (b) Portability health benefit plans.

9 (c) Individual health benefit plans.

10 (3) The director may by rule:

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

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

14 (4) The director, after conducting an actuarial review of the rate filing, may approve a proposed
 15 premium rate for a health benefit plan for small employers or for an individual health benefit plan
 16 if, in the director's discretion, the proposed rates are:

17 (a) Actuarially sound;

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

19 (c) Based upon reasonable administrative expenses.

20 (5) In order to determine whether the proposed premium rates for a health benefit plan for small
 21 employers or for an individual health benefit plan are reasonable and not excessive, inadequate or
 22 unfairly discriminatory, the director [may] **shall** consider:

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

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

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

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

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

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

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

34 (h) Any public comments received under ORS 743.019 pertaining to the standards set forth in
 35 subsection (4) of this section and this subsection.

36 **(6)(a) The director may not approve a rate filing for any health benefit plan as defined**
 37 **in ORS 743.730 unless the carrier submitting the filing certifies that, in the carrier's con-**
 38 **tracts with providers and other business arrangements, the carrier does not reimburse for**
 39 **serious adverse events and does not allow the provider to bill an insured for a serious ad-**
 40 **verse event.**

41 **(b) As used in this subsection, "serious adverse event" means a health care service that**
 42 **is not covered by Medicare because the service is related to a health care acquired condition.**

43 [(6)] (7) With the written consent of the insurer, the director may modify a schedule or table
 44 of premium rates filed in accordance with subsection (1) of this section.

45 [(7)] (8) The requirements of this section do not supersede other provisions of law that require

1 insurers, health care service contractors or multiple employer welfare arrangements providing
 2 health insurance to file schedules or tables of premium rates or proposed premium rates with the
 3 director or to seek the director's approval of rates or changes to rates.

4 **SECTION 3. The amendments to ORS 743.018 and 743.019 by sections 1 and 2 of this 2012**
 5 **Act apply to rate filings for periods of coverage that begin on or after the effective date of**
 6 **this 2012 Act.**

7 **SECTION 4.** ORS 742.003 is amended to read:

8 742.003. (1) Except where otherwise provided by law, no basic policy form, or application form
 9 where written application is required and is to be made a part of the policy, or rider, indorsement
 10 or renewal certificate form shall be delivered or issued for delivery in this state until the form has
 11 been filed with and approved by the Director of the Department of Consumer and Business Services.
 12 This section does not apply to:

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

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

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

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

22 (2) **Except as provided for rate filings under ORS 743.019**, the director shall within 30 days
 23 after the filing of any [*such*] form approve or disapprove the form. The director shall give written
 24 notice of [*such action*] **the approval or disapproval** to the insurer proposing to deliver [*such*] **the**
 25 form and when a form is disapproved the notice shall [*show wherein such form*] **explain why the**
 26 **form** does not comply with the law.

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

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

33 **SECTION 5.** ORS 743.020 is amended to read:

34 743.020. An insurer licensed by the Department of Consumer and Business Services shall include
 35 in any rate filing under ORS 743.018 with respect to individual and small employer health [*insurance*
 36 *policies*] **benefit plans as defined in ORS 743.730** a statement of administrative expenses in the
 37 form and manner prescribed by the department by rule. The statement must include, but is not lim-
 38 ited to:

39 (1) A statement of administrative expenses on a per member per month basis; and

40 (2) An explanation of the basis for any proposed premium rate increases or decreases.